

NOV 16 1979

MICHAEL ROBAK, JR., CLERK

TERM 1979

NO. ~~79-776~~

ERICH KOKER and BEATRICE E.
KOKER, husband and wife,
Plaintiff/Appellant/Petitioner,

v

NOEL B. SAGE and WINETTA
SAGE, husband and wife, and
NOEL B. SAGE, Jr.

**Defendants,
Respondents**

A-P-P-R-N-D-I-X

JURISDICTIONAL STATEMENT

Appeal From State Of Washington

State Supreme Court #45846 and 46169
Court Of Appeals Division I #4916-I

Appeal: Appendix A-15(a)(b)
Extension Of Time: Appendix A-15(c)(d)

Pro Se

Beatrice E. Koker
939 - North 105th
St. Seattle, Wash.
(206) 783-6998

I N D E X

APPENDIX: FIRST SECTION: (July 29, 1976)
(February 1979)

"Verdict" Appendix A-1
 "Motion New Trial or Additur" . Appendix A-2
 "State Court Appeal" Appendix A-3
 "Appellate Decision" Appendix A-4
 "Reconsideration Denied" Appendix A-5
 "Petition For Review" Appendix A-6
 "Rehearing Denied" Appendix A-7

APPENDIX:

SECOND SECTION: (February 1979)
 (July 20, 1979)

"Letter-Evidence Motion Denied" Appendix A- 8
 "Mandate Issued Prematurely" . Appendix A- 9
 "Notification Not Docketed". . Appendix A-10
 "Motion To Recall Denied" . . Appendix A-11
 "Appeal For Review Denial" . . Appendix A-12
 "Rule 4.3 Jurisdictional" . . Appendix A-12(a)
 "Permission Asked To Answer" . Appendix A-12(b)
 "Discretionary Review Allowed". Appendix A-13
 "Commissioner Ruling". . . . Appendix A-13
 "My Answer To Commissioner". . Appendix A-13(a)
"FINAL RULING. MOTION DENIED". Appendix A-14

I N D E X

APPENDIX: THIRD SECTION:

"Supreme Court Appeal" . . Appendix A-15(a)(b)
"Jurisdiction Time". . . . Appendix A-15(c)(d)
"Memo-Federal Court Deputy" Appendix A-16
"New Issue: Original File" Appendix A-17(a)(b)
Release Of Files Not Appendix A-17(a)(b)
Docketed Until Discovery . Appendix A-17(a)(b)
"Special Motion State Ct." Appendix A-18
"Picture Wrecked Car". . . Appendix A-19
"False Continuance". . . . Appendix A-20
"Doctor's Memo" Appendix A-21
"To Whom It May Concern" . Appendix A-22
"Reference". Appendix A-22
"Motion Shelved" Appendix A-23
"Petitioner's Answer". . . Appendix A-24

Citation

See: Page 92 Herein
Second Citation

Reference: Chicago B & Q R. Co V Chicago
166 U.S. 226, 246:
Graham v Gill,
223 U. S. 643, 645:

I N D E X

APPENDIX: FOURTH SECTION:

"Jury Foreman Affidavit" . . Appendix B-1

"Jury Foreman At Oral Argue" Appendix B-2

"Affidavit-Lay Witness" . . . Appendix B-3

"Affidavit Rev. Sabrowsky" . Appendix B-4

"Affidavit 1975 Mistrial" . Appendix B-5

"Dr. Sola - Treating Doctor" Appendix B-6

"Dr. Sola - Affidavit" . . . Appendix B-7

"Dr. Henriksen Orthopedic" •Appendix B-8
Surgeon Petitioner's Dr."
Wedge In LEFT SHOE

"Photograph To Error 9(C) Appendix B-9
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Herein PART II"

"Diploma-Journalism" Appendix B-10

"Complaint" Appendix B-11(a)
. Appendix B-11(b)

Encl B-12

APPENDIX

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APPENDIX

121119

DOCUMENT NUMBER

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON FOR KING COUNTY

ERICH KOKER and BEATRICE
KOKER, husband and wife,

Plaintiffs,

v.

No. 773620

NOEL B. SAGE and WINETTA
SAGE, husband and wife; and
NOEL B. SAGE, JR.,

Defendants.

VERDICT

DEPT. 22

We, the jury, find for the plaintiffs

in the sum of \$ 4600.00

Stephen M. Wood
FOREMAN

JUN 16 AM 9:17

REF 682 PAGE 391

40

appendix A-1

FILED

'76 JUN 17 PM 1:35

BETT J. MULLEN
CLERK
KING COUNTY WA

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON FOR KING COUNTY

ERICK KOKER and BEATRICE E.
KOKER, husband and wife,

Plaintiffs,

NO. 773620

vs.

NOEL B. SAGE and WINETTA SAGE,
husband and wife, and
NOEL B. SAGE, JR.,

Defendants.

MOTION FOR NEW TRIAL
OR IN THE ALTERNATIVE
FOR ADDITUR

Come now the plaintiffs and move that they be granted a
new trial on the following grounds:

1. Irregularity in the proceedings of the court, jury
and adverse party, order of the court and abuse of discretion by
which such parties were prevented from having a fair trial;
2. Misconduct of the prevailing parties and jury;
3. Accident or surprise which ordinary prudence could
not have guarded against;
4. Newly discovered evidence material to the plaintiffs
which could not with reasonable diligence have been discovered
and produced at the trial;
5. Damages so inadequate as unmistakably to indicate
that the verdict must have been the result of passion or
prejudice;
6. Error in the assessment of amount of recovery in
that it is inadequate;
7. That there is no evidence or reasonable inference
from the evidence to justify the verdict and that it is contrary

MOTION FOR NEW TRIAL OR
IN ALTERNATIVE FOR ADDITUR.
1.

LAW OFFICES
SHEEL, MCKELVY, MENKE, EVENSON & BETTS
20TH FLOOR
900 FOURTH AVENUE
SEATTLE, WASHINGTON 98164

appendix A-2

1 to law.

2 8. Error in law occurring at the trial and excepted
3 to at the time by the parties making this application.

4 9. That substantial justice has not been done.

5 FURTHER, without waiving the foregoing motion but
6 expressly relying thereon, the plaintiffs move for additur.

7 DATED this 16th day of June, 1976.

8 SKEEL, MCKELVY, HENKE, EVENSON & BETTS

9
10 By *F. V. Betts*
11 FREDERICK V. BETTS
12 Attorneys for Plaintiffs
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MOTION FOR NEW TRIAL OR IN
ALTERNATIVE FOR ADDITUR.
2.

LAW OFFICES
SKEEL, MCKELVY, HENKE, EVENSON & BETTS
40TH FLOOR
900 FOURTH AVENUE
SEATTLE, WASHINGTON 98104

appendix A-2(a)

1
2 SUPERIOR COURT OF WASHINGTON
3 FOR KING COUNTY

4 ERICH KOKER and BEATRICE E.
KOKER, husband and wife,

5 Plaintiffs,

6 V.

7 ROEL B. SAGE and WENDY SAGE,
8 husband and wife, and
9 ROEL B. SAGE, JR.,

10 Defendants.

NO. 773620

NOTICE OF APPEAL TO
COURT OF APPEALS

July 29, 1976

11 ERICH KOKER and BEATRICE E. KOKER, plaintiffs seek review by the
12 designated appellate court of the entry of the judgement and denial of
13 plaintiffs Motion for New Trial or in the Alternative for Additur on June 30,
14 1976.

15 A leg brace must be worn the rest of plaintiff Beatrice E. Koker's life.
16 Permanent injuries are proven through testimony of doctors and through the
17 Electrocyrogram Tests by Dr. Anders E. Sola. (Dr. Rothstein, Dr. Klumperer,
18 Dr. Leavitt or Dr. Sata DID NOT perform the Electrocyrogram Tests that could
19 have located injuries.) The verdict must be the result of passion or
20 prejudice or not understanding the evidence. Defendants admitted liability.

21 The plaintiffs hereby appeal to the Court of Appeals of the State of
22 Washington from that certain judgement and order made, rendered and entered in
23 this court and cause on the 30th day of June, 1976, and from each and every
24 part of said order to said Superior Court, and from all rulings and orders
25 adverse to the plaintiffs which occurred during the trial of this case prior
26 and subsequent to the entry of such order.

27 Dated this 29th day of July, 1976

28 Defendants Attorneys:

29 Kenneth L. Lellaster

30 E. Scott Fallon
31 Plaza Building
32 NE 45th and BROOKLYN AVE. NE
Seattle, Washington 98185

LEGAL DEPARTMENT

Beatrice E. Koker, Plaintiff Pro Se

signed

Erich Koker, Plaintiff Pro Se
939 - North 105th St.
Seattle, Washington 98133

Telephone: 783-6998

appendix A-3

*25th June
23rd*

The Court of Appeals
of the
State of Washington
Seattle
98104

June 5, 1978

✓ Mr. Erich Koker
Mrs. Beatrice E. Koker
939 North 105th Street
Seattle, WA 98133

Mr. Kenneth L. LeMaster
Mr. R. Scott Fallon
Attorneys at Law
Plaza Building
4333 Brooklyn Avenue N.E.
Seattle, WA 98105

Counsel:

Re: No. 4916-I, Koker, et ux. v. Sage, et ux., et al.
King County No. 773620

The opinion filed by the court in the above-referenced case today, states in part as follows:

"Affirmed."

In accordance with RAP 14.4(a), claim for costs by the prevailing party must be supported by a cost bill filed and served within ten days after the filing of this opinion, or claim for costs will be deemed to have been waived.

Very truly yours,

Richard D. Taylor
Richard D. Taylor
Clerk

RDT/bes
Enclosure

CC: Hon. Donald J. Horowitz
Attorney at Law
1600 Seattle Tower
Seattle, WA 98101

Appendix A-4

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

ERICH KOKER and BEATRICE E.
KOKER, husband and wife,

Appellants,

v.

NOEL B. SAGE and WINETTA
SAGE, husband and wife, and
NOEL B. SAGE, JR.,

Respondents.

No. 4916-I

ORDER DENYING
MOTION FOR RECONSIDERATION

The appellants Koker, having filed a motion for reconsideration, and the court having determined that it should be denied; Now, therefore, it is hereby

ORDERED that the motion for reconsideration be, and the same hereby is, denied.

Done this 8th day of August, 1978.

[Signature]
Chief Judge

Appendix A-5

CHAMPAGNE
CLERK
REGINALD N. SHRYVER
DEPUTY

The Supreme Court

State of Washington

Olympia
98504

February 2, 1979

Mr. Erich Koker
Ms. Beatrice Koker
939 North 105th Street
Seattle, Washington 98133

Mr. Kenneth LeMaster
Mr. R. Scott Fallon
Plaza Building
4333 Brooklyn Avenue N. E.
Seattle, Washington 98105

Counsel:

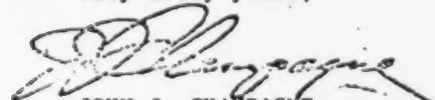
Re: Supreme Court No. 45846 - Koker v. Sage
Court of Appeals No. 4916-I

Following consideration of the above entitled Petition
for review on February 2, 1979, the following notation order
was entered on page 125, Vol. 1, of the petition for review
docket:

"DENIED

/s/ Robert F. Utter
Chief Justice"

Very truly yours,


JOHN J. CHAMPAGNE
Clerk

JJC:aje

cc: Division I, Court of Appeals

appendix A-6

J. CHAMPAGNE
CLERK
REGINALD N. SHRYVER
DEPUTY

The Supreme Court

State of Washington

Olympia
98504

February 6, 1979

Mr. Erich Koker
Ms. Beatrice Koker
939 North 105th Street
Seattle, Washington 98133

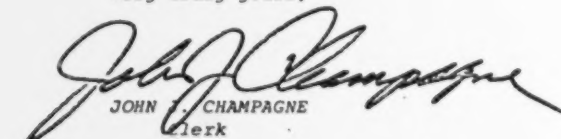
Dear Mr. Koker:

RE: Supreme Court No. 45846 - Koker v. Sage
Court of Appeals No. 4916-I
King County No. 77362

This is to acknowledge receipt of your letter of February 5, 1979,
wherein you indicate that it is your intention to file a motion
for reconsideration of the order entered by this Court on February
2, 1979, denying the above entitled petition for review.

In accordance with RAP 12.5(b)(3) (ROA I-50 was repealed in 1975)
the decision of the Court of Appeals became final on the date that
the petition for review was denied. No further procedures are
available under the Rules, as a consequence, the Court will not
consider any additional pleadings in the cause.

Very truly yours,


JOHN J. CHAMPAGNE
Clerk

JJC:aje

cc: Mr. Kenneth LeMaster
Mr. R. Scott Fallon
Honorable Richard Taylor, Clerk
Division I, Court of Appeals
Honorable Kenneth Helm, Clerk
King County Superior Court

appendix A-7

RICHARD D. TAYLOR, Clerk
WANDA BOUDREAU, Deputy

The Court of Appeals
of the
State of Washington
Seattle
98104

DIVISION 1
PACIFIC BUILDING
(206) 464-7750

March 6, 1979

APPENDIX

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A - 12(a)

A - 12(b)

A - 13

A - 13(a)

A - 14

APPENDIX

Mr. Erich Koker
Mrs. Beatrice E. Koker
929 North 105th Street
Seattle, WA 98133

Mr. Kenneth L. LeMaster
Mr. R. Scott Fallon
Attorneys at Law
Plaza Building
4333 Brooklyn Avenue N.E.
Seattle, WA 98105

Counsel:

Re: 4916-I, Koker v. Sage

Following consideration by a panel of the judges of
this court, the following notation order has been entered in
the above-referenced appeal on February 28, 1979:

"Motion to Change or Modify Decision
Rule 12.7(a)

Denied

/s/Jerome Farris
Acting Chief Judge"

Very truly yours,

Richard D. Taylor
Richard D. Taylor
Clerk

RDT/wb

Appendix A-8

Koker

THE COURT OF APPEALS OF THE STATE OF WASHINGTON

ERICH KOKER and BEATRICE E.
KOKER, husband and wife,

Appellants,

v.

NOEL B. SAGE and WINETTA
SAGE, husband and wife, and
NOEL B. SAGE, JR.,

Respondents.

MANDATE

No. 4916-I

King County No. 773620

The State of Washington to: The Superior Court of the State of Washington

in and for King County

This is to certify that the opinion of the Court of Appeals of the State of Washington, Division I, filed on June 5, 1978, became the decision terminating review of this court in the above entitled case on March 7, 1979. This cause is mandated to the superior court from which the appeal was taken for further proceedings in accordance with the attached true copy of the opinion.

Pursuant to RAP 14.6(c), costs are taxed as follows: Sixty-five and No/100 Dollars (\$65.00) in favor of respondents and against appellants. The motion for reconsideration was denied by an order dated August 8, 1978; the petition for review was denied by an order dated February 2, 1979.

cc: Mr. Erich Koker
Ms. Beatrice Koker
Reporter of Decisions

Mr. Kenneth L. LeMaster
Mr. R. Scott Fallon



IN TESTIMONY WHEREOF, I have hereunto
set my hand and affixed the seal of said
Court at Seattle, this 7th day of
March, 1979

Richard D. Taylor
RICHARD D. TAYLOR

Clerk of the Court of Appeals, State of Washington,
Division I

appendix A-9

RECEIVED

APR - 1979
CLERK OF COURT OF APPEALS
STATE OF WASHINGTON I

File No.

Date	Filings and Proceedings
8/8/78	Order Denying Motion for Reconsideration
8/11/78	Motion for extension of time to file petition for review to October 8, 1978 - "Granted" by CJ Farris on 9/7/78
9/26/78	Request for permission to file 11 additional pages to petition for review; Affidavit of service "Granted" by notation order by CJ on 10/17/78
10/9/78	Petition for review - served 10/19/78 # 45846 2-2-79
10/18/78	Pouches (2) and briefs (10 A: 10 R: 10 Reply) delivered to the Supreme Court - Receipt acknowledged 10/27/78
2/5/79	Petition for review DENIED by Supreme Court 2/2/79
2/5/79	Copy of letter to Supreme Court from appellant
2/7/79	Copy of letter from Supreme Court to appellant
2/9/79	Appellants' Motion to Change or Modify Decision, Rule 12/7(a) received - ret'd to app. on 2/14/79
2/15/79	Appellant's Motion to Change or Modify Decision - Rule 12.7(a); Motion Pursuant to Rule 17.7, Objection to Ruling, Review of Decision on Motion by Appellate Court Judges (Both +3)
2/16/79	Evidence (+7 - to be attached to motions filed 2/15/79)
2/28/79	Motion to Change or modify decision - DENIED by ACJ. Farris;
3/7/79	Mandated
3/9/79	Motion: Recall of mandate (+4) 3

appendix A-10

Koker

RICHARD D. TAYLOR, Clerk
WANDA BOURDEAU, Deputy

The Court of Appeals
of the
State of Washington
Seattle
98104

DIVISION I
PACIFIC BUILDING
(206) 464-7750

April 13, 1979

Mr. Erich Koker
Ms. Beatrice Koker
939 N. 105th St.
Seattle, WA 98133

Mr. Kenneth L. LeMaster
Mr. R. Scott Fallon
Attorneys at Law
Plaza Building
4333 Brooklyn Ave. N.E.
Seattle, WA 98105

Counsel:

Re: No. 4916-I, Koker v. Sage

The following notation order was entered in the above-
referenced case today:

"Motion to recall mandate

Denied."

/s/ Herbert A. Swanson

Acting Chief Judge

Very truly yours,

Richard D. Taylor
Richard D. Taylor
Clerk

RDT/mlg

Appendix A-11

RECEIVED

APR 16 1979
ERICH KOKER and BEATRICE E. KOKER, husband and wife
CLERK OF SUPREME COURT
Plaintiff/Appellants vs. Respondents,
STATE OF WASHINGTON

V

NOEL B. SAGE and WINETTA SAGE,
husband and wife, and
NOEL B. SAGE, JR.

Respondents.

IN THE SUPREME COURT OF THE
STATE OF WASHINGTON

Supreme Court: 45846
Court of Appeals Div 1 4916-I
Superior Court: 773620

NOTICE OF APPEAL

SEEKING REVIEW: Erich Koker and Beatrice E. Koker, Petitioners pro se

APPEAL FOR: DENIAL OF MOTION TO RECALL MANDATE WHICH WAS PREMATURELY ISSUED
THE SAME DAY PETITIONERS RECEIVED DENIAL OF MOTION.

APPEAL FOR: DENIAL OF MOTION ^{12.7} 12.7(a) and 17.7 REGARDING LETTER-EVIDENCE
PROVING BY ELIMINATING DOUBT OF APPELLATE COURT DECISION
FOR NEWLY DISCOVERED EVIDENCE IN ERROR 3A. DECEIT.

APPEAL FOR: RECONSIDERATION OF PETITION FOR REVIEW EN BANC AS FIRST REVIEW.
REHEARING DENIED BECAUSE OF REPEAL OF RULE ROA-I 50

APPEAL FOR: EVIDENCE SUBMITTED 12.7 and 17.7 IMPERATIVE TO FINAL JUSTICE.
I ASK THE SUPREME COURT OF THE STATE TO UNDO A DENIAL OF A
RIGHT TO APPEAL WHEN A MANDATE IS PREMATURELY ISSUED BLOCKING
THE APPEAL OF VITAL EVIDENCE WHICH COULD WARRANT A REVERSAL.

APPEAL FOR: USING RULE 1.2 WAIVER AND RCW 2.28.150 POWERS EXTRAORDINARY
TO WHATEVER MEANS NECESSARY FOR JUSTICE TO BE.

COPY SENT CERTIFIED MAIL TO:

The Court of Appeals Division 1 Seattle, Washington
Kenneth L. LeMaster and R. Scott Fallon
4333 - Brooklyn Avenue NE
Seattle, Washington 98185
Telephone: 633-1310

Beatrice E. Koker
Beatrice E. Koker, Pro Se
Erich Koker
Erich Koker, Pro Se
939 - North 105th St.
Seattle, Washington 98133
Telephone: 783-6998

Dated: April 16, 1979
BEK

Appendix A-12

ERICH KOKER and BEATRICE E.
KOKER, husband and wife,
Plaintiff/Appellant/Petitioner,

F

NOEL B. SAGE and WINETTA SAGE,
husband and wife, and
NOEL B. SAGE, JR.

Respondents.

OR ALTERNATIVELY RULE 4.3 TRANSFER
TO PROMOTE THE ORDERLY ADMINISTRATION
OF JUSTICE.

NOTICE OF APPEAL OF REFUSAL OF CLERK
OF COURT OF APPEALS TO DOCKET MOTION
REGARDING MOTION 12.7, 17.7, 12.9.
HE DID NOT EVEN READ THE MOTION JUST
SAID THE MANDATE IS DOWN SINCE MARCH.

STATE REMEDIES IMPEDED:

THE ENTIRE CONTROVERSARY AT THIS POINT STEMS FROM MOTION 12.7 (A) WHICH
WAS ACCEPTED IN FILING BY THE COURT OF APPEALS UNDER RULE 17.7 AND RULED UPON,
WHICH SHOULD BE BY RIGHT UNDER THE LAW SUBJECT TO APPEAL.

TO ISSUANCE OF THE MANDATE PREMATURELY IS TO DENY ME THE RIGHT TO APPEAL.
I ASK THAT YOU USE RULE 1.2 WAIVER TO ADJUDICATE JUSTICE. THE MANDATE IS
PREMATURE. THE SUPREME COURT HAS THE POWER TO CHANGE THIS INJUSTICE, RECALL
THE MANDATE, RULE ON APPEAL IN MOTION 12.7 (a), AND UPON A FAVORABLE RULING
REOPEN THE PETITION FOR REVIEW TO INCLUDE THE EVIDENCE-LETTER OF MOTION 12.7(a).

CITATION 1 PACIFIC DIGEST 2d 233 APPEAL AND ERROR Washington 1972
West's Key 1188 Making and Issuance

"Where cause was remitted by the Court of Appeals on the same day
it entered order dismissing the appeal for want of prosecution,
cause was remitted PREMATURELY and motion to recall remittur
filed within 30 days after decision was entered was timely."

Appendix A-12 (a)

IN THE SUPREME COURT OF THE
STATE OF WASHINGTON

Superior court 773620
Court of Appeals Div 1 . . . 4916-I
Supreme Court of Washington 45846

April 9, 1979

NOTICE OF APPEAL IN DELAY OF RULING ON
MOTION TO RECALL MANDATE IN THE COURT
OF APPEALS

NOTICE OF APPEAL FROM PREMATURE ISSUANCE
OF MANDATE BLOCKING APPEAL OF MOTION TO
SUPREME COURT. MOTION ISSUED BEFORE
MANDATE, AND ACCEPTED BY APPELLATE COURT.

NOTICE OF APPEAL FROM COURT OF APPEALS
RULING ON MOTION 12.7 ACCEPTED AND
RULED UPON BEFORE ISSUANCE OF MANDATE.

UPON FAVORABLE RULING THIS LETTER-
EVIDENCE, TO RULE 1.2 REOPEN THE REVIEW
EN BANC TO CONSIDER THIS MOTION 12.7(a)

ERICH KOKER and BEATRICE E.
KOKER, husband and wife,
Plaintiff/Appellant/Petitioner,

V

NOEL B. SAGE and WINETTA SAGE,
husband and wife, and
NOEL B. SAGE, Jr.

Defendants/Respondents.

RECEIVED

MAY 14 1979

CLERK OF SUPREME COURT
IN THE SUPREME COURT OF THE
STATE OF WASHINGTON

RE: 46169 MOTION FOR
DISCRETIONARY REVIEW

Supreme Court: #45846
Court of Appeals: #4916-I
Superior Court: #773620

PERMISSION RESPECTFULLY ASKED

Dated: May 11, 1979

I, BEATRICE KOKER, PLAINTIFF/APPELLANT/PETITIONER PRO SE,
RESPECTFULLY ASK LEAVE TO ANSWER RESPONDENTS' ANSWER TO
MOTION FOR DISCRETIONARY REVIEW BECAUSE:

- (1) THERE IS A PRECEDENT CASE TO COUNTERACT HIS ANSWER.
- (2) THE DEFENSE ATTORNEY HAS IGNORED THE ISSUES OF THE MOTION.
- (3) THE LEGAL PRO SE REPRESENTATION IS PRECARIOUS. I THEREFORE
ASK THIS ANSWER BE ACCEPTED AS MY ATTEMPT FOR SELF-PROTECTION.
- (4) THE DEFENSE ATTORNEY DISREGARDS THE CIRCUMSTANCES SURROUNDING
MY USE OF THE COURT RULES, AND DISTORTS THE PURPOSE OF THE
RAP RULES AS USED BY THE PETITIONER BEATRICE KOKER.

Copy Sent Certified Mail To:
Kenneth L. LeMaster and R. Scott Fallon
4333 Brooklyn Avenue NE Seattle, Wash.
98185 Telephone: 633-1310

Filed and Sworn to before me this

NOTARY PUBLIC IN AND FOR THE STATE OF WASHINGTON

Residing at

(Place of Residence)

Respectfully submitted,

Beatrice E. Koker

Beatrice E. Koker, Pro Se

Erich Koker

Erich Koker, Pro Se
339 - North 105th St.
Seattle, Washington 98133

Telephone: 783-6998

Appendix A-12 (a)

ERICH KOKER and BEATRICE E.
KOKER, husband and wife,

Plaintiff/Appellant/Petitioner,

V

NOEL B. SAGE and WINETTA SAGE,
husband and wife, and
NOEL B. SAGE, Jr.

Defendants/Respondents.

IN THE SUPREME COURT OF THE
STATE OF WASHINGTON

RE: 46169 MOTION FOR
DISCRETIONARY REVIEW

Supreme Court: #45846
Court of Appeals: #4916-I
Superior Court: #773620

REPLY TO RESPONDENTS RESPONSE TO
PETITIONERS MOTION FOR DISCRETIONARY
REVIEW 12.9 - 12.7(a) - 17.7

Dated: May 11, 1979

I

REPLY TO RESPONDENT

***** QUOTING ***** RESPONDENT ATTORNEY HIS PAGE 2 LAST PARAGRAPH

"The mandate was properly issued by the Court of Appeals thirty-three days following denial by the Supreme Court of the appellants' petition for review, at which time there were no further remedies or avenue of appeals available to appellants. There is no basis for appellants' request that the mandate be recalled within the scope of the Court Rules."

Beatrice Koker Answers:

The defense attorney in his answer indicates there is no redress obtained for any reason after petition denial, including justice. He does not consider RAP 1.2 nor the Extraordinary Powers of the Supreme Court. There is a precedent case from the Supreme Court of the State of Washington proving the defense attorney mistaken.

Page 1

Reply to Respondents' Response

Appendix A-12 (b)

CITATION Post v Spokane 28 Wn 701 (1902)

This is a case in which the Supreme Court has the power to grant a change of judgments which it has affirmed, upon a showing being made to the satisfaction of the court that the ends of justice require it. A proof of fact in that case came to light and the Supreme Court ruled favorably upon it in 1902 in a precedent case to preserve justice even though there was no deceit involved there. Quoting that case: 28 Wn 703 and 704:

"Certainly no permission can be granted to disturb the judgments affirmed or entered by this court unless it is made reasonably to appear that the ends of justice requires it. But the PRECEDENT of entertaining and considering such applications has already been established. Since our published reports contain nothing upon this subject, as far as we are now informed, we have thought it proper to make these observations in this connection, in order that the PRECEDENT established may be more generally understood."

How much more imperative it is to dissolve a wrongful verdict and unfair trial in the case at bar, when the verdict was obtained through deceit and fraud of the court as in one instance Error 3 A.

The defense attorney has stated in his response there is no basis for petitioner's request for a recall of the mandate within the scope of court rules. There is basis to recall the mandate in RAP 12.9; there is basis to review the denial by Appellate Court of RAP 12.7(a) pursuant to 17.7; there is basis to take another look for justice in this case and reverse the decision. The rules of the court do not permit adverse influence in trial, to obstruct

Page 2

Reply to Respondents' Response

Appendix A-12 (b)

or impede due administration of justice is never allowable per the:

II CITATION II 20 ALR Federal Cases p 755 § 9

"It has been recognized that 18 USCS § 1503 protects not only court proceedings, but such proceedings as preliminary hearings and grand jury investigations as well, since the latter-mentioned proceedings serve as extensions of the court. Thus, the "due administration of justice" can begin at the earliest, with the filing of the complaint, and it does not end, at the latest, until the final disposition of the last appeal. Obstructive action taken at any point in between, even while there is no judicial proceedings, actually in progress is punishable, since the matter would still be pending."

This citation applies to delay from a fraudulent continuance granted on the ground presented by the defense attorney as a "conflict of trial dates" when in fact he was proven to be in a motion. See Proof: Appellants' Petition for Review Appendix A-12 (a)(b)(c)(d). See Proof: Untruth #4 Motion 12.7(a) page 16.

Delay is an insidious barrier to justice. There is a mistrial February 1975 caused by actions of defense attorney and 18 months delay from mistrial to trial. Proof: Motion 12.7(a) page 11 and 12 and Appellants' Reply Brief page 1.

ALL OF THE MOTION FOR DISCRETIONARY REVIEW NOW PENDING IS RELATED TO ANY EXAMPLES GIVEN HEREIN.

What can a court judge do to fulfill his duty if the facts are withheld by untruths by some attorneys, the very persons most obligated to inform the judge honestly and truthfully? A court has

Page 3

Reply to Respondents' Response

Appendix A-12 (b)

the responsibility to discourage delay and insist upon prompt disposition of litigation according to 10A Federal Practice Digest 847 Wests Key 327.

There is every basis and reason for this petitioner to ask for the recall of the mandate, review of Motion pursuant to 12.7(a) and 17.7, and reversal of the entire trial, within the scope of court rules and the law of the land and the proven deceit in trial, and proving impeding and obstruction of justice with prejudice at every turn to me. AFOREMENTIONED. REITERATED. PROVEN FROM THE RECORD.

II

REPLY TO RESPONDENT

***** QUOTING ***** RESPONDENT ATTORNEY ITEM (5) HIS PAGE (1)

"The mandate was issued by the Court of Appeals. This procedure is quite proper pursuant to RAP 12.5 (b) (3), wherein it states such mandate may be issued by the Court of Appeals upon denial of the Supreme Court of Petition for Review."

Beatrice Koker Answers:

Mr. LeMaster has again evaded all the issues. According to Rule 12.5 (a) (which he does not even mention) a "mandate" is a WRITTEN NOTIFICATION by the Clerk of the trial court and the parties of an Appellate Court Decision terminating review.

Page 4

Reply to Respondents' Response

Appendix A-12 (b)

THERE WAS NO WRITTEN NOTIFICATION OF A MANDATE. NO MANDATE WAS ISSUED. Motion 12.7(a) and Motion 17.7 were both submitted to the Court of Appeals before issuance of mandate, thus making this a proper and timely motion accepted by the Court of Appeals. There is a ruling of DENIED, but my right for review was estopped.

At this point, there is a strange twist of facts. The docket of the Appellate Court shows Motions 12.7(a) and 17.7 DENIED February 28, 1979. Letter of notification of denial of those motions to petitioners is dated March 6, 1979. This notification letter is markedly missing from the docket, and am therefore enclosing the notificater letter for proof of date, and the docket sheet. Appendix A-1 and Appendix A-2

THE MANDATE IS THEN ISSUED WITHIN 24 HOURS OF NOTIFICATION OF DENIAL OF MOTIONS 12.7(a) and 17.7 TO THE PETITIONERS. That is an issue. Premature issuance of the mandate obstructed the right to ask the Supreme Court for review of an Appellate Court ruling on motions.

The mandate was issued prematurely in this improper manner. The right to ask the Supreme Court for review of the denial was estopped abruptly. To issue a mandate in this hasty premature manner is even more improper because of the subject-matter of the Evidence-Letter in both motions regarding Error 3A and deceit in a trial court. Also, in addition, the Supreme Court had ruled

Page 5

Reply to Respondents' Response

Appendix A-12 (b)

en banc on Error 3A in the Petition for Review. That makes an inherent right for the Supreme Court to examine the Evidence-Letter in conjunction with the Untruths #1 #2 #3 #4 and proving the deceit plugging the last link in the technicality of "newly discovered evidence."

Therefore, the mandate was improperly and prematurely issued UNDER THE CIRCUMSTANCES in the wake of events so proving. The defense attorney makes no mention of the Evidence-Letter nor his part in deceit of the trial.

The Petition for Review was a Discretionary Review and it was DENIED. RAP 13.5(d) Effect of Denial:

"Denial of discretionary review of a decision does not effect the right of a party to obtain later review of the Court of Appeals decision or the issues pertaining to the decision."

+ RAP 13.5 (b) (2)

"If the Court of Appeals has committed probable error and the decision of the Court of Appeals substantially alters the status quo or substantially limits the freedom of a party to act, . . ."

(a) To prematurely issue a mandate is to substantially limit my freedom to move in any direction for relief of improper timing of the mandate disallowing my right to ask for review of a ruling on Motions by the Court of Appeals.

Page 6

Reply to Respondents' Response

Appendix A-12 (b)

- (b) The law of the land and the rules of the court protect the UNSUSPECTING as well as the wary.
- (c) Discretionary review is granted to me by the Supreme Court and gratefully received by Pro Se Beatrice Koker.

III

REPLY TO RESPONDENT

**** QUOTING **** RESPONDENT ATTORNEY HIS PAGE (2) PARAGRAPHS (1)(2)

"Further, pursuant to RAP 12.4(g), a motion to modify the decision of the Court of Appeals must be preceded by the party's motion for reconsideration being granted."

"In this case, not only was the appellants' motion for reconsideration DENIED by the Court of Appeals but their subsequent and improper motion to change or modify (which is in reality a second motion for reconsideration) is clearly prevented by RAP 12.4(h), but in any event was DENIED by the Court of Appeals."

Beatrice Koker Answers:

In reality what Rule RAP 12.4(g) actually says, is this:

"If a motion for reconsideration is granted, the Appellate Court may (1) modify the decision without new argument, (2) call for new argument, or (3) take such other action as may be appropriate."

The defense attorney knows Rule RAP 12.7(a) is not a reconsideration rule. The defense attorney has completely ignored the subject matter of RULE 12.7(a) and 17.7 Motions. (Deceit and Untruths) The Evidence-Letter and Error 3A and deceit in the trial court CORRELATED TOGETHER FOR THE FIRST TIME has not been considered before. How could he think an Evidence-Letter never seen be reconsideration?

Page 7
Reply to Respondents' Response

Appendix A-12 (b)

Why do the court rules have RAP 12.7(a) if what the defense attorney claims that only decisions granting reconsideration can be changed or modified? According to that theory as per his response document, RAP 12.7(a) should be integrated into RAP 12.4 as 12.4(i) and abolish 12.7(a) RAP entirely!

Again the defense attorney has not recognized RAP 1.2 and the justice power of the Appellate Structure. He makes no mention of repugnant deceit in trial court. The technicalities of pre-decisions can be obliterated and the rules bent for justice. The precedent case page 2 and page 3 herein says it like it is: Possible. Probable. Accomplished.

IV

REPLY TO RESPONDENT

**** QUOTING **** RESPONDENT ATTORNEY ITEM (4) HIS PAGE (1)

"Appellants' improper motion to change or modify the Court of Appeals decision was DENIED."

Beatrice Koker Answers:

WOULD AN APPELLATE COURT RULE UPON AN "IMPROPER" MOTION?

Is the defense attorney calling the Appellate Court improper because the Honorable Judges accepted motions 12.7(a) and 17.7 and ruled upon same?

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Reply to Respondents' Response

Appendix A-12 (b)

The mandate had not been issued. The motions were proper because pursuance of justice is never improper. Deceit is improper.

II CITATION II Southerland v County of Oakland
77 Federal Rules Decisions 733 (2) (3)

"... fraudulent statements to the court are particularly disturbing because he is an attorney and as such, an officer of the court obliged to act forthrightly at all times."

"While he should represent his client with singular loyalty, that loyalty obviously does not demand that he act dishonestly or fraudulently; on the contrary, his loyalty to the court, as an officer thereof, demands integrity and honest dealings with the court. And when he departs from that standard of conduct of the case he perpetrates a fraud upon the court." 7 Moore's Federal Practice 513 (1975) (Citations Omitted)

A fair trial is the most precious constitutional right of all citizens. The legal profession goes to great lengths to instill public confidence in the profession as it should, because only the legal profession has the capacity and ability to represent the public correctly in court.

In re Murchison, et al, 349 U.S. 133, 136, 99 L Ed 942, 946 (1955) said that court emphasized our system of law has always endeavored to prevent even the PROBABILITY OF UNFAIRNESS."
(Emphasis Mine)

Page 9

Reply to Respondents' Response

Appendix A-12 (b)

There is a public image of the legal profession. Justice Jackson, concurring in Hickman v Taylor 329 U.S. 495 (1947) said it this way:

"But it too often is overlooked that lawyers and the law office are indispensable parts of our administration of justice . . . The welfare and tone of the legal profession is therefore of prime consequence to society."

UNFAIR TRIAL:

There are questions to be answered by the defense attorney to allegations presented throughout appeal. He has chosen not to answer, here and now, nor in the briefs, nor oral argument.

The following example is pertinent to the motion pending at this time because these very happenings instigated the appeal in the first place. The enclosed affidavits will substantiate the relating of this incident. The purpose is to reinforce review of motions pertaining to Deceit in Error 3A and the Letter-Evidence submitted, and recall the mandate to rule on 12.7(a) and 17.7 and the Petition for Review and the reversal of the verdict.

June 7, 1976: My attorney then, Mr. Betts, sent me ALONE to a defense doctor two days prior to trial. The defense doctor subjected me to a veritable bevy of questions resembling a deposition interrogation. He was extremely rude but I did not become angry, but I was sarcastic and asked: "Is this supposed to be a medical examination or a deposition?"

Page 10

Reply to Respondents' Response

Appendix A-12 (b)

Quietly, in a lady-like manner I told him his questions were improper because I thought I was supposed to be at a medical examination, not a deposition, and would call my attorney and put a stop to it. My attorney was not in and I spoke to a colleague of his who told me to just ignore it.

The trap is recognized now. In court, from the record, this is what happened:

RP VOL III p 228/10-23: Direct Examination Of Doctor By Defense

Mr. LeMaster: "Doctor, was there anything unusual that occurred during the taking of your medical history from Mrs. Koker?"

Dr. Klemperer: "She felt that she had to consult her attorney about the - - call her attorney about - - my role in this matter, and WHETHER OR NOT SHE WAS IN A DEPOSITION."

What did the attorney of Beatrice Koker do in rebuttal?

RP VOL III p 252/1-10: Mr. Betts Cross Examination Dr. Klemperer

Mr. Betts: "Doctor, you told the jury that when you first started examining her, she wanted to call me, her attorney, about the procedure of what was going on; isn't that true?"

Dr. Klemperer: "Right."

Mr. Betts: "And that was because she thought it was supposed to be a deposition rather than an examination; isn't that what she told you?"

Dr. Klemperer: "That's right."

Page 11

Reply to Respondents' Response

Appendix A-12 (b)

Mr. Betts: "And you contacted my office, and everything was straightened out, and you told - I told her that this was a medical examination?"

Mr. Betts wasn't even in his office, and did not speak with Dr. Klemperer, and he as my attorney was told the affrontruy of this medical man and his rudeness and his improper questions for a medical examination. I had been to both depositions and medical examinations and really did know the difference.

The entire thrust of the defense was to depict me as a woman "far gone mentally" and my attorney aided and abetted the defense in the aforementioned example. Why would an attorney of such experience and stature and respect as Mr. Betts do this? The jury never got the explanation.

Please refer to Affidavit Section Appendix this document. A citation has revealed to me a surprising fact, and there are more answers to be obtained regarding my protection in court and litigation.

II CITATION II MODERN TRIALS 1961 Supplement 311 and 312

Footnote 41^a: Sharff v Superior Court (1955) 44 Cal 2d 508, 282 P 2d 896

"Whenever a doctor selected by the defendant conducts a physical examination of the plaintiff, there is a possibility that IMPROPER QUESTIONS, may be asked and a lay person should not be expected to evaluate the propriety of every question at his peril. The plaintiff therefore, should be permitted to have the assistance and protection of an attorney during the examination."

Page 12

Reply to Respondents' Answer

Appendix A-12 (b)

The litigation in the case at bar comes to you at an age of nearly 8 years since the day of the wreck June 4, 1971. I must without choice endure the injuries, the repercussions and aftermath of the injuries, the humiliation of an unfair trial, the heartbreak and disappointment in wrongdoing of people I trusted, both attorneys. The burden of pro se from necessity in a legal struggle for justice has fallen to me. When a legal misstep is done in court depriving a citizen of that cherished right to a fair trial, there must be redress and remedy for the victim of the legal misstep which resulted in deceit of the Judge, jury and the litigants. There must be a reversal and an attempt of restitution for those who have been deceived, wronged, deprived of constitutional promises. We, the Petitioners.

I respectfully ask for Justice. I cannot touch a penny of that verdict. To do so would be to partake of a verdict obtained in deceit. It would be aiding the wrongdoers in accomplishing a goal "to win a case"? It would be approving the actions of those who deceived in a court of law. To not protest, to not fight, to not resist would be deceit in a trial sub silentio and a denial of justice. Please reverse?

Copy Sent Certified Mail to:
Kenneth L. LeMaster and R. Scott Fallon
4333 Brooklyn Avenue NE Seattle, Wash.
98185 Telephone: 633-1310

RESPECTFULLY SUBMITTED,

Beatrice E. Koker

Beatrice E. Koker, Pro Se

Erich Koker

Erich Koker, Pro Se

939 - North 105th Street

Seattle, Washington 98133

Telephone: 783-6998

I and Sworn to before me this 11 day of MAY

NOTARY PUBLIC IN AND FOR THE STATE OF WASHINGTON

Residing at:

(Please Print Name)

Appendix A-12 (b)

JOHN J. CHAMPAGNE
CLERK
REGINALD A. SHIVER
DEPUTY

The Supreme Court

State of Washington
Olympia
98504

June 1, 1979

Ms. Beatrice Koker
Mr. Erich Koker
939 North 105th Street
Seattle, Washington 98133

Mr. Kenneth LeMaster
Mr. R. Scott Fallon
4333 Brooklyn Avenue
Seattle, Washington 98185

Gentlepersons:

Re: No. 46169 - KOKER V. SAGE
Court of Appeals No. 4916-I

Enclosed herewith is a copy of the Ruling Denying Motion for Discretionary Review signed by the Commissioner on May 31, 1979, in the above referenced cause.

Very truly yours,

John J. Champagne
JOHN J. CHAMPAGNE
Clerk

JJC:aje

cc: Division I, Court of Appeals

appendix A-13

THE SUPREME COURT OF WASHINGTON

ERICH KOKER and BEATRICE
E. KOKER, husband and wife,

Petitioners,

v.

NOEL B. SAGE and WINETTA
SAGE, husband and wife, and
NOEL B. SAGE, JR.,

Respondents.

NO. 46169

RULING DENYING MOTION
FOR DISCRETIONARY REVIEW

This matter came before the Commissioner on May 31, 1979 on petitioners' pro se motion for discretionary review of an April 13, 1979 order of the Court of Appeals, Division One, denying petitioners' motion to recall mandate. Respondents have answered opposing the motion.

Petitioners do not suggest why their motion should be granted in view of the considerations set forth in RAP 13.5(b), but rather appear to argue that there were improprieties of some sort in the original mandate procedure and injustices in past proceedings in the long history of this lawsuit. These allegations are not really relevant to the present motion, and in any event the files in this matter indicate that petitioners' case has received exhaustive consideration at each of the various court levels which it has previously passed through.

There being no grounds for discretionary review of the order denying motion to recall mandate, the motion for discretionary review is denied.

DATED at Olympia, Washington this 31st day of May, 1979.

Jeffrey D. Doohe
COMMISSIONER

Appendix A-13

III (C)

RECEIVED

JUN - 8 1979

ERICH KOKER and BEATRICE KOKER, husband and wife, of WASHINGTON

Plaintiffs/Appellants/Petitioners,

v.

NOEL B. SAGE and WINETTA SAGE, husband and wife, and
NOEL B. SAGE, JR.

Respondents.

IN THE SUPREME COURT OF
THE STATE OF WASHINGTON

Re: Discretionary Review

46169

Supreme Court . . 45846
Appellate Court . 4916-I

RULE 17.7 MOTION TO MODIFY

RULING - DIRECTED TO THE
HONORABLE JUDGES OF THE
STATE SUPREME COURT OF
WASHINGTON

Dated: June 8, 1979

IDENTITY OF PETITIONER: Erich Koker and Beatrice Koker, Pro Se

DECISION BELOW:

The Honorable Supreme Court Commissioner denies the petitioners the motion for Discretionary Review of the denial of Recall of the Mandate by The Court of Appeals Division I. The Honorable Commissioner states the petitioners did not suggest why their motion should be granted in view of the considerations set forth in RAP 13.5(b) (2).

Proven Grounds For Review:

RAP 13.5(b)(2): "if the Court of appeals has committed probable error and the decision of the Court of Appeals substantially alters the status quo or substantially limits the freedom of a party to act, or"

Petitioners Desperation No Freedom To Act:

The legal limits of freedom of a pro se to act was so limited in the Court of Appeals Division I, as to accurately be labeled "desperation." A personal journey was made to Olympia by Beatrice Koker even to asking for relief under rule 4.3 because there was no place to go. Please ask Mr. Shriver for verification that a pro se petitioner came into the office saying she was not there to complain but simply because she was desperate and could not legally move in any direction. Papers pertaining to that restriction submitted to the Supreme Court of the State of Washington April 9, 1979 and April 16, 1979

Page 1 RULE 17.7 Motion to Modify Ruling TO JUDGES ONLY

Appendix A-13(a)

Ruling on 17.7 will be July 20, 1979

May 11, 1979 { June 8, 1979

April 9, 1979 { April 16, 1979

1 DECISION BELOW:

2 "Not Improprieties"

3 The impression of the Honorable Commissioner is that the
4 petitioner appeared to argue there were improprieties of some
5 sort in the original mandate procedure.

6 "Premature Mandate:

- 7 (a) A motion was submitted to the Court of Appeals Division I
8 and later the motion was denied.
- 9 (b) There was a lapse of 7 days from denial of the motion to
10 notification of the motion being denied.
- 11 (c) The 10 days time allowed to ASK for review of a ruling,
12 was then further diminished to three days.
- 13 (d) Within 24 hours of notification, the mandate was issued
14 prematurely destroying the constitutional right to ASK
15 for review of a denied ruling.

16 "To Correct Error"

17 A motion to Recall Mandate was filed in the Court of
18 Appeals under Rule 12.9(a) - "to correct error."

19 The motion was not ruled upon as the 30 day finality of
20 a mandate approached. To allow the thirty-day-finality of a
21 mandate to lapse without question or motion or ruling, would
22 make moot the necessity of any decision. "No freedom to act"
23 became a fact. "The mandate is final" was an oft repeated
24 sentence burned into my cortex April 6, 1979 while trying to
25 ferret information as to the whereabouts of Motion To Recall the
26 Mandate. Every question was answered: "The mandate is final."
27 The motion was not located. The "freedom to act" annihilated.

28 Page 2 RULE 17.7 Motion to Modify Ruling TO JUDGES ONLY

29 *Appendix A-13(a)*

1 DECISION BELOW: Court of Appeals:

2 The entire purpose of petitioners motions was to present
3 proof of "newly discovered evidence" when applied to Error 3(a)
4 in Petition for Review and Briefs.

5 A doctor changed his medical report in deposition.
6 The deposition was never transcribed.
7 The doctor was never called to testify.
8 The following letter-evidence proves concealment.
The following letter proves Error 3(A)

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LAW OFFICES
SKEEL, MCKELVY, HENKE, EVENSON & BETTS
40th FLOOR
900 FOURTH AVENUE
SEATTLE, WASHINGTON 98164

AREA CODE 206 823-1031

August 21, 1975

Mrs. Beatrice E. Koker
939 North 105th Street
Seattle, Washington 98133

Re: Koker vs. Sage

Dear Mrs. Koker:

As I informed you the deposition of Dr. Sata was taken on Wednesday, August 20. Without going into a lot of detail, this doctor stated in effect that he could find no real objective evidence to support your various claims.

On Thursday, August 21, the deposition of Dr.

Please note there is no mention of a changed medical report. No mention of proven spondylosis aggravation, the reasonable cost of a myelogram never testified to in court leaving litigants to pay with borrowed money.

A denied ruling on motions quashed ASKING for review thus preventing this evidence being presented to the Supreme Court. (No freedom to act.) Denial of Motion to Recall Mandate which was prematurely issued contrary to constitutional provisions.

Page 3 RULE 17.7 Motion To Modify Ruling TO JUDGES ONLY

Appendix A-13(a)

PAUL D. CAREY
BRUCE H. MURPHY
TRACY L. BROWN
JOHN P. BRADLEY
S. THOMAS MACHUSON
DOUGLAS S. DUNHAM
LIVINGSTON WERNER
DONALD C. CRANER

RECEIVED

FEL 16 1979

CLERK OF COURT OF APPEALS
STATE OF WASHINGTON

File No.

Evidence

1 DECISION BELOW: Commissioner State Supreme Court

2 The Commissioner goes on to say the petitioners appear to
3 argue that there were improprieties of some for in past
4 proceedings and injustices. Allegations not relevant to motion.

5 The packet of three motions stapled together and with tabs
6 for the convenience of the Supreme Court, you will find in
7 RAP 12.7 UNTRUTH #1 - #2 - #3 - #4 and the proof of each.
8 All the facts relevant to the motion for Discretionary Review
9 are within these three motions, plus the filing of the papers
10 April 9, 1979 and April 16, 1979. These facts are relevant
11 to the motion in all respects.

12 The very purpose for asking for the Recall of the Mandate
13 in the Court of Appeals was to claim the right to ASK FOR REVIEW
14 of a ruling. That is relevant. The very purpose of submitting
15 Motion 12.7 was to present "letter-evidence" proving without
16 one doubt, the newly discovered evidence of Error 3(a).

17 In view of these actions, and denials, and rejections,
18 there is merit displayed that the "letter-evidence" is a factual
19 proof for reversal, that is being prevented by "no freedom to act."

20 The jury foreman affidavit in which a jury is so confused
21 they must take a vote to determine guilt of innocence of the
22 "victim of admitted liability", is certainly relevant to any
23 aspect of this case and the allegations of injustice have
24 everything to do with an appeal, the discretionary review and
25 motions. The allegations have been proven from the record.

26 The exhaustive consideration is appreciated. The Court of
27 Appeals found abuse of discretion, the Supreme Court decided the
28 petition for review en banc. The closeness of the decisions
29 has everything to do with the Discretionary Review now and the
30 modification of the ruling, and weighing "newly discovered evidence."

31 Page 4 Rule 17.7 Motion To Modify Ruling TO JUDGES ONLY

32 *Appendix A-13(a)*

1 ISSUES PRESENTED FOR REVIEW:

2 (1) Does not Rule 13.5 (b)(2) apply to the circumstance of
3 desperation because the "freedom to act" and the "freedom to ask"
4 for review was estopped by premature mandate issued by the Clerk
5 of the Appellate Court?

6 (2) The facts on record of a docket in the Court of Appeals
7 shows the denial of Motion 12.7(a) was made February 28, 1979.
8 There is a notification letter of denial of that motion dated
9 March 6, 1979.

10 Is not a delay of 7 days out of a 10 day limit to ASK for
11 review the motion, be a denial of a constitutional right to be
12 heard?

13 (3) Is it not conclusive evidence that a mandate issued within
14 24 hours after notification of denial of a motion, leaves a void
15 in constitutional protection?

16 (4) When the record shows Beatrice Koker made a journey to the
17 Temple of Justice in Olympia asking for help in desperation,
18 does that not apply to Rule 13.5(b)(2) and reason for Discretion-
19 ary Review to be granted?

20 (5) Would not asking for jurisdiction be removed under rule 4.3
21 from the Court of Appeals be a consideration for Rule 13.5 (b)(2)
22 and Discretionary Review?

23 (6) Motion 12.7 was submitted to the Appellate Court under
24 Rule 17.7 February 15, 1979 holding the proof of "newly discovered
25 evidence." An issue here being relevancy for Discretionary
26 Review because the "evidence-letter" is quashed by the premature
27 issuance of the mandate cutting off the right for review of a
28 ruling. Would not a premature mandate preventing an absolute
29 right to ASK be denying the due process of law in appeal?

30 Page 5 Rule 17.7 Motion To Modify Ruling TO THE JUDGES

31 *Appendix A-13(a)*

Review of the will

6/11/1979

ISSUES PRESENTED FOR REVIEW:

(7) What justification is there for issuance of a premature mandate and then the Court of Appeals upholding the error which denies a constitutional privilege?

(8) Is untruth in a court of law by the quasi-judicial officers of the court to be called "impropriety" or "fraud of the court"? This is an issue because at no time have I mentioned the word impropriety and if this is mentioned in the opinion, then it is relevant in issues. Is "deceit" a mere impropriety?

(9) Why is it so difficult to get this "letter-evidence" to the Supreme Court?

(10) If the petitioners case has received exhaustive consideration, why then the very last motion that could have been put in treated with such elaborate rejection?

(11) The past trial proceedings have everything relevant to do with the motion. There was deceit in the trial in Error 3(A) The motion was to present further "letter-evidence" to prove that deceit. The motion to recall is based upon the rejection of the motion 12.7 with proof of deceit and "newly discovered evidence"

(12) The Commissioner of the Supreme Court states the allegations of injustices in the trial proceedings are not really relevant to the present motion.

The proceedings in trial court and the wrongful acts therein and the allegations proven from the record apply to this present motion because the very essence of the motion concerns deceit. The letter-evidence is the subject of the motion, and from the denial of that motion, a premature recall is issued, and then recall is in limbo, surfaced, denied, only to end up in discretionary review of the recall. Denied. Still no letter-evidence getting before the Supreme Court.

Page 6 Rule 17.7 Motion To Modify Ruling TO THE JUDGES

Appendix A-13 (a)

STATEMENT OF THE CASE:

CHRONOLOGICAL SUMMARY

February 2, 1979: The petition for review is denied by the State Supreme Court.

February 6, 1979: The State Supreme Court informed petitioners the rehearing rule has been repealed in 1975. Had there been a rehearing, the "letter-evidence" could have gone direct to the Supreme Court.

February 7, 1979: A evidence letter proving the petitioners did never know there had been a changed medical report in a deposition was found. In fact, the letter proved Error 3(A) and the letter proved the litigants were also misled.

February 9, 1979: Motion 12.7(a) was sent to the Court of Appeals Division I post-haste.

THE MANDATE HAD NOT BEEN ISSUED.

February 14, 1979: The Clerk of The Court of Appeals returned Motion 12.7 to petitioners.

February 15, 1979: Motion 12.7(a) was re-submitted in Rule 17.7 The Motion was accepted. THE MANDATE HAD NOT BEEN ISSUED.

February 28, 1979: The docket sheet shows the mandate is issued on this date.

March 6, 1979: A letter dated March 6, 1979 is sent to the petitioners notifying of denial of Motion 12.7(a) - "letter-evidence."

March 7, 1979: Within 24 hours the mandate is issued cutting all "freedom to act" as per Rule 13.5(b)(2).

March 9, 1979: Motion to Recall Mandate sent to the Court of Appeals within 2 days of issuance of the mandate. Rule 12.9(a) - "to correct error."

The Court of Appeals had the Recall Motion and nothing was heard. On April 6, 1979 I went to the Court of Appeals with a motion to protect my rights in that court and federal court. Not hearing, and then not investigating, and having the 30 day finality pass, would make the motion moot for recall.

Page 7 RULE 17.7 Motion To Modify Ruling TO THE JUDGES

Appendix A-13 (a)

1 STATEMENT OF FACTS: (Cont'd)

2 April 6, 1979: Beatrice Koker asked the Clerk of the Court of
3 Appeals if there had been a ruling on the Recall of the Mandate.

4 Answer: "The mandate is final."

5
6 Question: "How can a mandate be final, if the motion is still
7 pending before the court?"

8 Answer: "The mandate is final."

9 Then my motion to protect state and federal rights was
10 refused because, as he put it: "The mandate is final."

11 I asked if he would put the reason for rejection of my
12 motion in hand on the margin of the front page. He replied he
13 would not sign anything. I asked if he would mark the motion
14 refused. This he did. An intention was made known that I would
15 appeal under 17.7 and he said he would not take ANY of my papers.

16
17 "Freedom to act" Rule 13.5 (b)(2) became desperation for
18 Beatrice Koker. In the Supplementary submitted it says:

19 "There was no where to turn. I left the premises of
20 the Appellate Court in tears and utter despair."

21 April 9, 1979: A personal journey to Olympia to seek help.
22 Mr. Shriver was told the situation and that I was not there to
23 complain, but only as a desperate woman who did not know which
24 way to turn because my hands were tied legally. He filed my
25 attempted appeal and delved into where the Mandate Recall was.

26 Word was received from Mr. Shriver that the Motion to
27 Recall the mandate was before the judges (The Mandate Was Not
28 Final As Told) and they would be ruling. The ruling: Denied.

29 April 16, 1979: Supplementary papers, plus an appeal sheet,
30 was brought to the Supreme Court to be added to the three packet
31 stapled-together motions 12.7 - 17.7 - 12.9 for review:

32 Page 8 Rule 17.7 Motion To Modify Ruling TO THE JUDGES

Appendix A-13 (a)

1 STATEMENT OF THE FACTS: (Cont'd)

2 I asked: That the denial of Motion to Recall Mandate which was
3 prematurely issued the same day petitioners received denial of
4 Motion to Recall, be overruled.

5 I asked: After the Recall of the Mandate, to rule on the denial
6 of Motion 12.7 and 17.7 regarding the "letter-evidence" proving
7 "Newly Discovered Evidence" in error 3(A) a changed medical report
8 in deposition, and the contents of the deposition concealed from
9 the jury, court and litigants. That letter being proof the
10 petitioners did not know of a changed medical report before the
11 trial. The doctor was not called to trial to testify. The
12 deposition had never been transcribed. A tight picture of proof.

13
14 I asked: That under the circumstances of a premature mandate,
15 proof of deceit in a trial and Error 3A that the petition for
16 review EN BANC (as previously) be used to re-weigh the injustice
17 and to reverse the jury verdict.

18 I asked: That Rule 1.2 waiver and RCW 2.28.150 powers extraordinary
19 be used to whatever means necessary for justice.

20
21 Discretionary Review

22 Notice came that discretionary review would be May 31, 1979.
23 All the facts were before the Supreme Court. The "freedom to act"
24 was obvious. The error of a premature mandate was obvious.
25 The desperation of the petitioner was obvious.

26 Discretionary Review is denied by the Supreme Court Commis-
27 sioner May 31, 1979, saying the petitioners "do not suggest why
28 their motion should be granted in view of the considerations set
29 forth in RAP 13.5 (b)(2)."

30 I turned to the Supreme Court the best I could under the
31 circumstances of being crippled physically and to be a pro se
32 is to be a struggling burden of a cross to bear.

Page 9 Rule 17.7 Motion to Modify Ruling TO THE JUDGES

Appendix A-13 (a)

STATEMENT OF THE FACTS: (Cont'd)

The Supreme Court heard the Petition for Review EN BANC. The finality for justice within the State of Washington was so close. The request was that the Supreme Court of the State of Washington review this "evidence-letter" comparing the already proof of Error 3(A) and reverse the decision.

All motions, request, desperation words from denial of "freedom to act" are in the Supreme Court to be considered. I, as a petitioner, personally xeroxed the 9 copies needed for the Supreme Court Judges so that the office work would not be extra because of me. Everything is there to see. I ask for the Judges Honorable of the State Supreme Court to take over this case and finalize the remedy and redress in the State of Washington to one of her citizens for the past 37 years. Justice will then be possible. Only then.

ARGUMENT

The three year statute of limitations for other action is June 9, 1979. My trial June 4, 1979 as per the entire appeal is denial of procedural due process and denial of procedural equal protection in a court of law under the Constitution of the United States and the Constitution of the State of Washington.

Motion 12.7 in the pack of motions holds Untruth #1 and Untruth #2 and Untruth #3 and Untruth #4 which the Commissioner of the court refers to as "appearing to argue there were improprieties of some sort in the original mandate procedures and injustices in past proceedings."

To issue a mandate within 24 hours of notification of a denial of a motion I felt at first to be a "mistake" and appealed the record in that manner 12.9(a). The appellate court upheld the premature
Page 10 Rule 17.7 Motion to Modify Ruling TO THE JUDGES

Appendix A-13 (a)

ARGUMENT (Cont'd)

mandate condoning an error of the Clerk of the Court, and completely denying due process to be heard in a RIGHT TO ASK for review of a denial of a motion.

The "freedom to act" was gone. In desperation a difficult journey for me, was made to Olympia and asking that the entire case be lifted from the Court of Appeals so that justice could be done in recalling a mandate, ruling on Motion 12.7 and 17.7 and viewing the "evidence-letter" and finding proof of the newly discovered evidence which in turn could reverse the jury verdict to allow justice.

Justice:

Beautiful Rule 1.2 states the rules will be liberally interpreted to promote justice. Cases are not to be determined on the basis of compliance or noncompliance with these rules except in compelling circumstances where justice demands. Justice demands looking at the evidence, trying to forget there is a pro se giving you the facts ineptly. The State Supreme Court has the power to waive any of the rules in order to serve the ends of justice.

(a) Are the ends of justice served when Motion 12.7 is denied in appellate court when that motion holds the proof of "newly discovered evidence"?

(b) Are the ends of justice met when the "letter-evidence" is prevented from the en banc consideration by the Supreme Court?

(c) Could justice survive in a premature mandate cutting off the right to ask a review of a ruling?

(d) Where is justice in Discretionary Review not even recognizing the petitioner's desperate lack of "freedom to act"?

Page 11 Rule 17.7 Motion to Modify Ruling TO THE JUDGES

Appendix A-13 (a)

ARGUMENT (Cont'd)

Attorneys are in a position of knowledge, expertise, and law and a superiority over and protection for a litigant-client in court proceedings and all litigation. The honesty, integrity, honor, dedication and responsibility of the Oath and CPR of the attorneys and the court is all that insures there will be a fair trial. When there is deceit from the attorneys, the very protectors of fairness, the day of the "day in court" is annihilated.

The only recourse is appeal of the wrong. If the injustice is not reversed on appeal, there is no justice to be had. Yet the Rule 1.2 Waiver is a beacon to those who have been wronged. But how does the beacon become available if the approach has a detour in denial of motions, denial of discretionary reviews, denial of due process to ASK for a review of a ruling?

No motion, no evidence, no pleadings will get to the Honorable Judges except through the proper personnel protecting the Judges from overwork, extra judicial tasks that can be handled elsewhere. But when the motion is "evidence" that could overturn a wrong and subsidize a "reversal" and that "evidence" is waylaid in technicalities and denials justice is obliterated in the process.

A jury foreman affidavit tells the story of confusion in a trial. A jury is so confused it takes him approximately 2 hours to convince the jury the permanently injured plaintiff is "not guilty." What kind of a farce is a trial when the victim of the injuries of an admitted liability automobile accident must have a criminal deliberation to determine the damages only?????

Jury Foreman Affidavit: See Appendix A-8 Petition for Review.

Is it now time to take another look at Error 3(A) in which the defense attorney reads an original medical report of a doctor when he KNOWS that doctor changed the medical report in deposition?

Page 12 Rule 17.7 Motion to Modify Ruling TO THE JUDGES

Appendix A-13 (a)

ARGUMENT (Cont'd)

See Motion 12.7 - 17.7 - 12.9 in the packet of three motions, plus the papers submitted to the Supreme Court April 9, and April 16th. The motions are stapled together with tabs for the convenience of the court. All xeroxing was done by the pro se to save trouble for the Supreme Court and the Appellate Court, in the matter of these motions and also papers.

The very access which would enable a litigant to attain consideration by the Supreme Court is cut off by denial of Motion to Recall so that a premature mandate can be undone. To deny recall in the Court of Appeals is to put a stamp of approval upon denying me a constitutional right to ASK for review of a motion!

That motion was tremendously important - 12.7. A "evidence letter" sent before the mandate was even issued was in that motion. Denied. Then before I can even assemble papers to answer, the mandate is issued within 24 hours cutting off my right to appeal denial of a motion.

Even the Discretionary Review of the error presents another denial of justice using as a reason no grounds were presented under 13.5(b)(2) when the grounds were lived with and journeyed with to the Temple of Justice for help, and recorded in the papers presented to the court April 9, and April 16 along with the complete set of denied motions in the tab packet.

"Freedom to act" is again in denial of Discretionary Review. Where is justice when the wrong and deceit in trial are upheld by affirmance on appeal and the injured litigant is penalized for her honesty and truthfulness?

The three years from date of trial will be tomorrow. I have struggled and fought to present facts to the appellate structure, to gain justice through appeal. To have a new trial.

Page 13 Rule 17.7 Motion to Modify Ruling TO THE JUDGES

Appendix A-13 (a)

ARGUMENT (cont'd)

1 The Court of Appeals pointed out the lack of objections in
2 the trial court, and the inadequate offer of proof in Error 10.
3 There would have been a reversal if the offer of proof had been
4 proper because there was abuse of discretion in Error 10.

5 Sadness and sorrow come when the three year statute
6 is here. I still pray for a new trial and reversal
7 of injustice in my Washington State. I pray for
8 additur which would wipe out the need for a new trial
9 based on the \$145,000. "sensible award for a drop foot
10 injury" as stated by the Court of Appeals Division I
11 in Ryan v Westgard 12 Wash App 500 (1975)

12 The legal profession has my respect forever. I have come
13 to separate the profession from those who have not upheld their
14 promises.

15
16 The first thought associated with a court of law is "do you
17 swear to tell the truth, the whole truth, and nothing but the
18 truth"? Truth was told by the witnesses. Does the question
19 also apply to those quasi judicial officers of the court who have
20 an Oath and CPR as a reliance and insurance and a inspiration
21 to be honorable? What happens if there is deceit and wrong in
22 court by those under Oath are proven in untruths? I rest my case
23 in your hands here, and I rest my case in God's Hands There.

24 COPY SENT CERTIFIED MAIL:

25 Defense Attorneys:
26 R. Scott Fallon and Kenneth L.
27 LeMaster 4333 Brooklyn Aven NE
28 Seattle, Washington

29 Court of Appeals Division I

Respectfully submitted,
Beatrice E. Koker, Pro Se
Erich Koker, Pro Se
939 North 105th St. Seattle, Wn.
783-6998

30 Subscribed and Sworn to before me this 8 day of June 1979

31 (SEAL)

32 Residing at Seattle, WA

Appendix A-13(a)

The Supreme Court

State of Washington

Olympia

88504

July 20, 1979

Ms. Beatrice E. Koker
Mr. Erich Koker
939 North 105th Street
Seattle, WA 98133

Mr. Kenneth L. LeMaster
Mr. R. Scott Fallon
Attorneys at Law
4333 Brooklyn Avenue N. E.
Seattle, WA 98185

Re: No. 46169 - ERICH KOKER, et ux, v. NOEL B. SAGE, et ux, et al
(Court of Appeals Cause No. 4916-I).

Counsel:

Following a hearing on July 20, 1979, the following
Notation Order was entered on page 506, in Volume 14, of the
Motion Docket:

"MOTION TO MODIFY RULING
(COMMISSIONER'S):

DENIED.

/s/ Charles F. Stafford,
Acting Chief Justice."

Very truly yours,

John J. Champagne

JOHN J. CHAMPAGNE
Clerk

JJC:je

16
IN A RULING BY
TION TO MODIFY
IT JUSTICES - -
) WRONGDOING

Appendix A-14

S
Beatrice E. Koker
Erich Koker

APPENDIX

A - 15(a)(b)

A - 15(c)

A - 15(d)

A - 16

A - 17(a)(b)

A - 18(a)(b)

A - 19

A - 20

A - 21

A - 22

A - 23

A - 24

APPENDIX

FILED
SUPREME COURT
STATE OF WASHINGTON

RECEIVED
AUG 7 1979
CLERK OF SUPREME COURT
STATE OF WASHINGTON
NOTICE OF APPEAL
FROM
SUPREME COURT OF THE STATE
OF WASHINGTON. . #45846
SUPREME COURT OF THE STATE
OF WASHINGTON #46169
PERTAINING TO . . #45846
COURT OF APPEALS DIV. I
STATE OF WASHINGTON #4916-I

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IN THE SUPREME COURT OF THE UNITED STATES OF AMERICA
ERICH KOKER and BEATRICE E.
KOKER, husband and wife,
Plaintiffs/Appellants/Petitioners,
v.
NOEL B. SAGE and WINETTA
SAGE, husband and wife, and
NOEL B. SAGE, JR.
Defendants,
Respondents.

THIS APPEAL IS TAKEN PURSUANT TO 28 U.S.C.A. 1257(3) AND THE
CONSTITUTION OF THE UNITED STATES OF AMERICA.

PARTIES TAKING THE APPEAL: BEATRICE E. KOKER and ERICH KOKER,
PLAINTIFFS/APPELLANTS/PETITIONERS/PRO SE

JUDGMENT APPEALED FROM:)

APPEALING: AFFIRMATION IN THE COURT OF APPEALS DIVISION I OF
THE DENIAL OF "NEW TRIAL OR IN THE ALTERNATIVE
ADDITUR" CR 59 (1)(2)(3)(4)(5)(6)(7)(8)(9).
ADDITUR TO BE TO \$4,600. WHICH WAS AWARDED FOR A.
DROP FOOT INJURY, PLUS OTHER.

APPEALING: SUPREME COURT DENIAL OF PETITION FOR REVIEW. EN BANC

APPEALING: THE ENTIRE WRITTEN OPINION DECISION OF THE COURT OF
APPEALS AND MOTION FOR RECONSIDERATION DENIED.

APPEALING: DEPRIVATION OF CONSTITUTIONAL RIGHT OF "DAY IN COURT"
BECAUSE "REHEARING" IS ABOLISHED IN THE SUPREME COURT
OF THE STATE OF WASHINGTON. RULE ROA I-50 REPEALED.

APPEALING: PREMATURE ISSUANCE OF MANDATE IN COURT OF APPEALS.
MOTION FILED BEFORE MANDATE ISSUED, APPELLATE COURT
RULED AND DENIED. THE MANDATE WAS ISSUED WITHIN
24 HOURS OF NOTIFICATION OF DENIAL OF MOTION. DENIAL
OF DUE PROCESS OF LAW ESTOPPING RIGHT TO ASK REVIEW
OF MOTION DENIED.

APPEALING: RECALL OF MANDATE DENIED BY THE COURT OF APPEALS.

APPEALING: DENIAL OF DISCRETIONARY REVIEW PAPERS IN A RULING BY
THE SUPREME COURT COMMISSIONER. MOTION TO MODIFY
RULING TO THE HONORABLE SUPREME COURT JUSTICES - -
DENIED. SUBJECT MATTER: DECEIT AND WRONGDOING

Page 1 NOTICE OF APPEAL
THE SUPREME COURT OF THE UNITED STATES

Appendix A-15(a)
Erich Koker - Beatrice E. Koker
Beatrice E. Koker
1-206-783-6998

RECEIVED

AUG 7 1979

CLERK OF SUPREME COURT
STATE OF WASHINGTON

IN THE SUPREME COURT OF THE UNITED STATES OF AMERICA

1 APPEALING: THE NON-USE OF EXTRA-ORDINARY POWERS ON APPEAL BY
2 RULE RAP 1.2 WASHINGTON COURT RULES AND RCW 2.28.150
3 FOR JUSTICE REMEDY AND REDRESS.

4 APPEALING: THE PROCEDURES USED TO RESTRAIN VITAL LETTER-EVIDENCE
5 FROM EVER REACHING THE JUDGES OF THE SUPREME COURT
6 OF THE STATE OF WASHINGTON FOR A DECISION THAT COULD
7 HAVE (a) PROPERLY ALLOWED RECALL OF PREMATURE MANDATE,
8 (b) REVIEW OF MOTION ESTOPPED BY PREMATURE MANDATE,
9 (c) REOPENED PETITION FOR REVIEW, (d) REVERSED.

10 APPEALING: UNFAIR TRIAL. CONFUSION OF JURY VOTING CRIMINAL
11 DETERMINATION OF "GUILT" OR "INNOCENCE" FOR THE
12 VICTIM OF PERMANENT PERSONAL INJURIES IN A DEFENSE
13 ADMITTED LIABILITY.

14 APPEALING: NO REMEDY OR REDRESS GIVEN FOR UNFAIR TRIAL OR THE
15 PROVEN DECEIT, UNTRUTHS, MISLEADING THE JURY AND THE
16 COURT, CONFUSION, MISREPRESENTATION OF FACT, AND
17 CONCEALMENT. DISREGARD OF PROVEN WRONGDOING IN TRIAL.

18 APPEALING: THE VICTIM IS PENALIZED FOR WRONGFUL ACTS OF OTHERS
19 IN TRIAL AND NO RELIEF ON APPEAL.

20 APPEALING: BROKEN PROMISES OF A "FAIR TRIAL" AND "DAY IN COURT"
21 WHICH ARE CONSTITUTIONAL PROVISIONS OF THE UNITED
22 STATES OF AMERICA FOR EVERY CITIZEN THEREIN.

23 APPEALING: ALL ADVERSE JUDGMENTS AND RULINGS ON APPEAL IN THE
24 APPELLATE STRUCTURE IN THE STATE OF WASHINGTON.

25 APPEALING: A TRIAL OF ERRORS, WHICH THE CONSTITUTION FORBIDS.

26 COURTS APPEALED FROM:

27 THE STATE OF WASHINGTON SUPREME COURT
28 THE STATE OF WASHINGTON COURT OF APPEALS DIVISION I

29 FINAL WORD OF FINAL STATE COURT: July 20, 1979

30 COPY TO:

31 WASHINGTON STATE SUPREME COURT
32 Olympia, Washington

33 COURT OF APPEALS DIVISION I
34 Seattle, Washington

35 Kenneth L. LeMaster and R. Scott
Fallon - 4333 Brooklyn Ave NE
Seattle, Washington Defense Attys.

Beatrice E. Koker, Pro Se

Erich Koker

939 - North 105th St.
Seattle, Washington 98133
Telephone: 783-6998

Page 2

NOTICE OF APPEAL

THE SUPREME COURT OF THE UNITED STATES

Beatrice E. Koker

Seattle, Washington 98133
1-206-783-6998

Beatrice E. Koker

OFFICE OF THE CLERK
SUPREME COURT OF THE UNITED STATES
WASHINGTON, D. C. 20543

September 18, 1979

Mrs. Beatrice E. Koker
939 North 105th Street
Seattle, Washington 98133

Re: Erich Koker, et al. v. Noel B. Sage,
et al., A-232

Dear Mrs. Koker:

Your application for an extension of time
in which to docket an appeal in the above-entitled case has
been presented to Mr. Justice Rehnquist who, on September 17,
1979, signed an order extending your time to and including
November 19, 1979. A copy of the Justice's order is enclosed.

Please notify opposing counsel of this
action.

Very truly yours,

MICHAEL RODAK, JR., Clerk

By *Patricia A. Dean*
Patricia A. Dean
Assistant Clerk

th
Enc.

Appendix A-15 (C)

appendix A-15 (b)

Supreme Court of the United States

No. A-232

ERICH KOKER, ET UX.,

Appellants,

v.

NOEL B. SAGE, ET AL.

ORDER

UPON CONSIDERATION of the application of the appellants,

IT IS ORDERED that the time for docketing an appeal in the above-entitled cause be, and the same is hereby, extended to and including November 19, 1979.

/s/ William H. Rehnquist

Associate Justice of the Supreme
Court of the United States

Dated this 17th

day of September, 1979

Appendix A-15(d)

OPTIONAL FORM NO. 10
MAY 1962 EDITION
GSA FPMR (41 CFR) 101-11.6

UNITED STATES GOVERNMENT

Memorandum

TO : Mr. Champagne

DATE: 8/7/79

FROM : Bruce Rifkin, Chief Deputy

SUBJECT: Today I spoke to the Clerks Office of U.S. Supreme Court. They said that pursuant to Rule 10 a notice of appeal is to be filed with the court possessed of the record, in this case your court. You only need give the appellant a copy of this notice with your recieved or filed stamp on it & file the original away. The Appellant sends this copy of the notice to the Supreme Court. If you have any questions please call.



Buy U.S. Savings Bonds Regularly on the Payroll Savings Plan

Appendix A-16

OUT
8-23-79 4916-7

County No. _____ Judge _____

CRIMINAL
CIVIL
Indigent
DISC. RE
PERSONAL
RESTRAINT
PETS/RE

Appellant/Petitioner _____ Counsel _____ Respondent _____

Fee Paid _____ Fee Paid _____

Date	Filings and Proceedings
7/27/79	Vols. I-V of VRP checked out to Frederick V. Betts, to be returned by Sept. 6, 1979.
8/9/79	Request from Beatrice E. Koker for Certification of Record/Transmittal of Record
8/21/79	Mrs. Koker advised that certification of record not necessary at this time

Affidavit

I do certify by affidavit this copy of Docket Card obtained from The Court of Appeals Division I - Seattle, Washington on September 10, 1979, at .15¢ per copy by Plaintiff/Appellant/Petitioner. Pro se.

(This is a xeroxed copy of a xeroxed copy)
(Last page only) Beatrice E. Koker

939 N. 105th St Seattle, WA 98133

appendix A-17 (a)

+916-7

County No. _____ Judge _____

CRIMINAL
CIVIL
Indigent
DISC. REV.
PERSONAL
RESTRAINT
PETS/REV.

Appellant/Petitioner _____ Counsel _____ Respondent _____

Fee Paid _____ Fee Paid _____

Date	Filings and Proceedings
7/27/79	Vols. I-V of VRP checked out to Frederick V. Betts, to be returned by Sept. 6, 1979. <i>Entire file checked out 8-1-79.</i>
8/9/79	Request from Beatrice E. Koker for Certification of Record/Transmittal of Record
8/21/79	Mrs. Koker advised that certification of record not necessary at this time
9/11/79	Per phone conversation, Mr. Betts extended return date on file to September 24, 1979 (wb)
9/12/79	Pouches returned by Mr. Betts.

Affidavit

I do certify by affidavit this copy of Docket Card was obtained by Beatrice Koker, Plaintiff/Appellant/Petitioner from The Court of Appeals Division I - Seattle, Washington on September 12, 1979.

(This is a xeroxed copy of a xeroxed copy)
(Last page only) Beatrice E. Koker

appendix A-17 (b)

RECEIVED

OCT - 11 1979

IN KING COUNTY SUPERIOR
COURT CLERK'S OFFICE

MOTION
SPECIAL ACCELERATED PROCEEDINGS

1 ERICH KOKER and BEATRICE E.) IN THE SUPREME COURT OF
2 KOKER, husband and wife,) STATE OF WASHINGTON
3 Plaintiffs/Appellants/Petitioners,) #45846 Supreme Court of
4 V) State of Washington
5 NOEL B. SAGE and WINETTA SAGE,) #46169 Re: #45846
6 husband and wife, and) Supreme Court of State
7 NOEL B. SAGE, Jr.) of Washington
8 Defendants/Respondents.) #4916-I Court of Appeals
9) Division I - State of
10) Washington
11 ORIGINAL FILE RELEASED TO ADVERSARY) RE-CERTIFY ORIGINAL RECORD
12 IN PENDING CIVIL ACTION - 46 days)
13) ORIGINAL RECORDS REMOVED
14) 46 DAYS - BY LITIGANT
15 IDENTITY OF MOVING PARTY:

11 Beatrice E. Koker, pro se, plaintiff/appellant/petitioner,
12 identified as the recipient of injustice AGAIN in my own state.
13 A 58 year-old pro se woman is not exactly welcome in the courts,
14 especially if she is right. This opinion is not devised from
15 supposition but learned from long, hard, sad experience as pro se.

UNCONSTITUTIONAL DEED:

18 THE ORIGINAL RECORDS, AND PAPERS, EXHIBITS, THE ENTIRE FILE
19 ORIGINALLY FILED ON APPEAL, INCLUDING THE POUCH, WAS RELEASED
20 OUT OF THE JURISDICTION, OFF THE PREMISES, OUT OF THE CUSTODY OF
21 THE COURT OF APPEALS DIVISION ONE FOR 46 DAYS WITH 12 EXTRA DAYS
22 GRANTED IN AN EXTENSION OF TIME TO KEEP THE ORIGINAL RECORDS.

23 I AM ON APPEAL TO THE UNITED STATES SUPREME COURT. THE COURT
24 OF APPEALS DIVISION I WAS SO NOTIFIED AUGUST 8, 1979 AFTER THE
25 TIMELY FILING OF NOTICE OF APPEAL IN STATE SUPREME COURT OF
26 WASHINGTON AUGUST 7, 1979. (Final ruling in Washington July 20.)

28 THERE IS ALSO A PENDING CIVIL ACTION IN SUPERIOR COURT FILED
29 JUNE 7, 1979. THE COMPLAINT IS BASED UPON EVIDENTIARY PLEADINGS
30 TAKEN AND PROVEN FROM THE REPORT OF PROCEEDINGS RELEASED TO.
31 PETITIONERS ADVERSARY 46 DAYS. THE CIVIL ACTION IS FOR MAL-
32 PRACTICE, CONSPIRACY TO DENY ME A FAIR TRIAL, CIVIL RIGHTS, OUT-
RAGE.

(Cont'd)

Page 1 SPECIAL PROCEEDINGS MOTION TO
RE-CERTIFY ORIGINAL RECORDS

Beatrice E. Koker
939 - North 105th St.
Seattle, Washington

appendix A-18(a)

Beatrice E. Koker

UNCONSTITUTIONAL DEED: (Cont'd)

2 I KNOW THE SERIOUSNESS OF THIS "UNDER COLOR OF LAW" CONSTITUTIONAL
3 WRONG THAT HAS BEEN COMMITTED. ONLY THE JUDGES OF THE STATE
4 SUPREME COURT CAN ORDER PROPER RE-CERTIFICATION AND THIS IS THE
5 PURPOSE OF THIS SPECIAL ACCELERATED PROCEEDING MOTION.
6

WASHINGTON STATE RULES OF COURT

RULES FOR THIS MOTION:

11 RAP 17.7: This motion is to be ruled upon by the State
12 Supreme Court JUDGES ONLY. This is NOT TO BE
13 ruled upon by any commissioner or Clerk of
14 any court or anyone other than the State
15 Supreme Court JUDGES. I am sending nine
16 copies of this motion as per all proceedings
since February 1979 because the Petition for
Review was en banc. A motion with the
 ramifications envisioned needs nine opinions.

17 RAP 16.17: OTHER RULES APPLICABLE FOR SPECIAL PROCEEDINGS

18 RAP 18.12 ACCELERATED PROCEEDINGS.

20 RAP 1.2 (a)(c): INTERPRETATION AND WAIVER OF RULES BY COURT.

21 RAP 4.3: RULE 4.3 IS BEING USED IN THIS MOTION BECAUSE
22 PETITIONER DOES NOT WANT TO BE IN THE COURT
23 OF APPEALS DIVISION I FOR ANY REASON ANY TIME.
24 PRIOR TO THIS MOTION, RULE 4.3 WAS USED BEFORE
25 TO BE RELIEVED OF THE JURISDICTION OF COURT
26 OF APPEALS DIVISION I - STATE OF WASHINGTON.
THE COURT OF APPEALS DID NOT PROTECT THE
 *ORIGINAL FILE RECORD OF BEATRICE KOKER.

27 RCW 2.28.150: EXTRAORDINARY POWERS OF THE STATE SUPREME COURT

STATEMENT OF RELIEF SOUGHT:

30 Proper re-certification of entire original record, by the
31 State Supreme Court of the State of Washington.

(Cont'd)

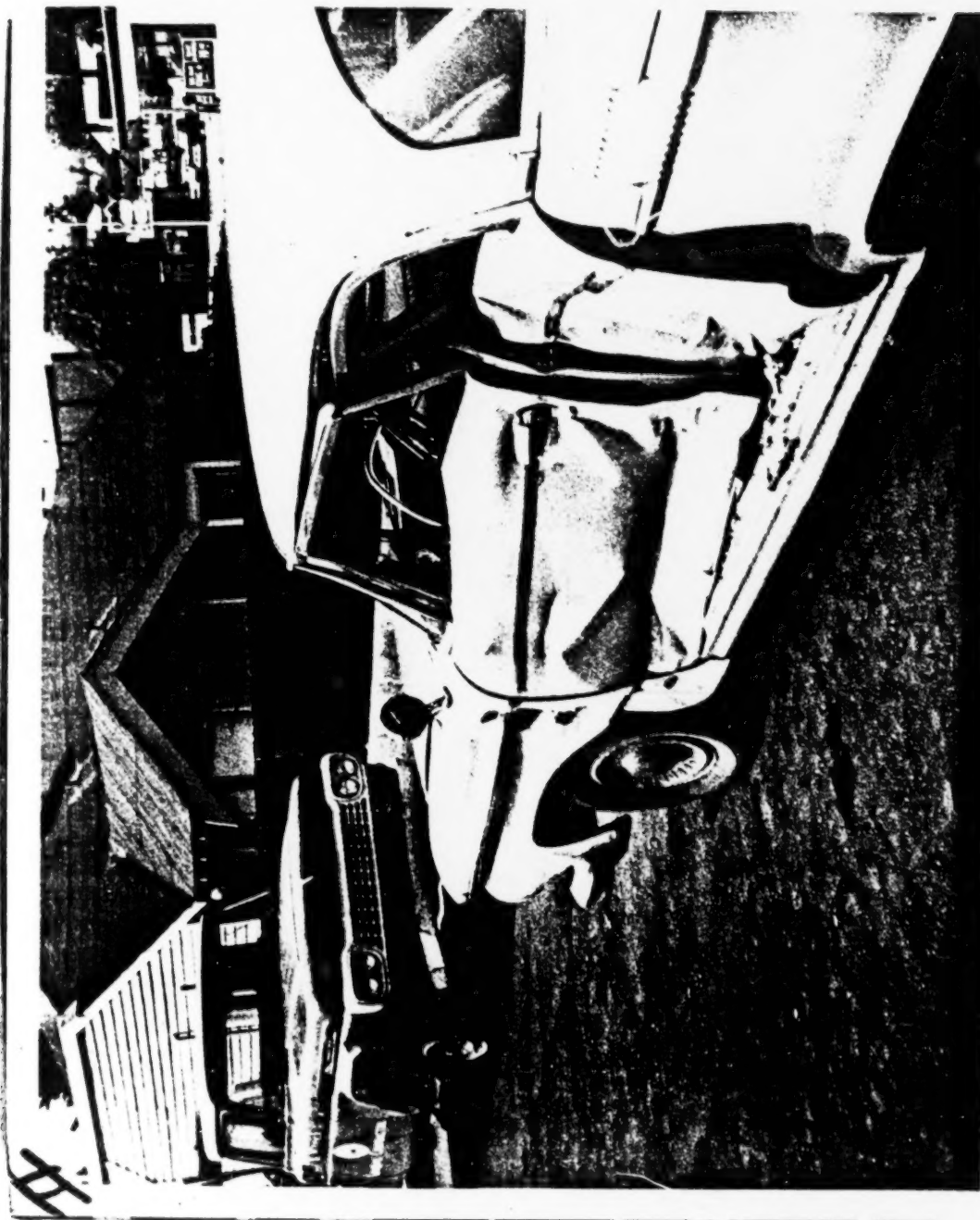
Page 2 SPECIAL PROCEEDINGS MOTION TO
RE-CERTIFY ORIGINAL RECORDS

Beatrice E. Koker
939 - N. 105th St.
Seattle, Washington
783-6998

Appendix A-18(b)

Beatrice E. Koker

Trial Exhibit #7



Appendix A-19

ISSUE RAISED FOR FIRST TIME ON APPEAL - DELAY

RULE 2.5 PUBLIC INTEREST TO RETURN RESPECT FOR COURT SYSTEM

A TRIAL FOR THE CASE OF KOKER V SAGE WAS SET FOR JUNE 3, 1974. JUST 18 DAYS PRIOR TO THAT TRIAL, THE DEFENSE ATTORNEY KENNETH L. LeMASTER OBTAINED A CONTINUANCE BECAUSE OF "CONFLICT OF TRIAL DATES." A "MOTION" IS NOT A TRIAL. TRIAL KOKER V SAGE SET CP 158 File #5 773620

CASE 755199 LUNT v CITY OF SEATTLE CP File 21. GRIEVE AND LAW STAMPED RECEIVED NOTE FOR MOTION DOCKET FROM KENNETH L. LeMASTER MAY 7, 1974. 5 WORKING DAYS NOTICE FOR A MOTION WHICH SHOULD HAVE PUT THE HEARING APPROX. MAY 13, 1974. THERE IS AN ERASURE EVIDENT ON THE ORIGINAL DATE IN THE COPY CP WHICH DOES NOT SHOW ON XEROXING. THE DATE IS CHANGED TO JUNE 3, 1974 - WHICH WAS TO HAVE BEEN MY TRIAL DATE POSTPONED BY CONTINUANCE BY THE DEFENSE ATTORNEY. THE CONTINUANCE STATES "CONFLICT OF TRIAL" . . . A MOTION IS NOT TRIAL.

COURT MINUTES MOTION AND SHOW CAUSE CALENDAR MONDAY JUNE 3, 1974, HONORABLE JUDGE GEORGE W. REVELLE DEPT 17 * LUNT V CITY OF SEATTLE HEARD. KENNETH L. LeMASTER PRESENT AT THE MOTION OF CASE 755199 INSTEAD OF AT TRIAL FOR KOKER V SAGE. ALL PAPERS AND PROOF IN APPENDIX PAGE A-12.

DELAY: MISTRIAL 1975: FEBRUARY 10, 1975 ENDED IN MISTRIAL. DEFENSE ATTORNEY LeMASTER CLAIMED DR. SATA REFUSED TO TESTIFY: SEE: APPELLANTS' ANSWER TO RESPONDENTS CIVIL APPEAL STATEMENT AUGUST 23, 1976 p 3/2-29: p 4/2-26: SEE: DR. SATA DEPOSITION SUBMITTED TO COURT OF APPEALS RULE 11.5(d) DECEMBER 14, 1977: DEPOSITION PAGE 25/20-25: p 26/1-4: SEE: APPELLANTS REPLY BRIEF: p 1:

SEE: RP VOL I p 4/20-25: p 5/1-11: THE DOCTOR HAD TESTIFIED IN DEPOSITION TO THE CONTRARY, (SEE ABOVE) AND DID NOT REFUSE TO TESTIFY AS PROOF ENCLOSED BY APPELLANT IN ANSWER TO RESPONDENTS' CIVIL APPEAL ST. DR. SATA MENTIONED 58 Times p 31 APPELLANTS OPENING BRIEF.

Appendix A-20

ARTHUR W. FREIDINGER, M. D.
PSYCHIATRY
1900 CASRINI MEDICAL TOWER
901 BOREN AVENUE
SEATTLE, WASHINGTON 98104
TELEPHONE 682-3288

June 19, 1978

To Whom It May Concern:

I have known Beatrice Koker since my first examination of her on April 9, 1976, and we have counseled every few months since her trial. I believe there has been considerable misunderstanding of her claims and her case, resulting in unfairness to her. Therefore, I would urge that she have another trial.

Sincerely,

Arthur W. Freidinger
Arthur W. Freidinger, M. D.

AWF/cm

July 23, 1974

TO WHOM IT MAY CONCERN:

It has been my privilege to know Mrs. Erich (Beatrice) Koker for a number of years.

I hold her in the highest regard as a highly intelligent person of unassailable integrity, honesty, and character, to which should be added "courage."

Should detail or example be desired, the reader is invited to communicate directly with the undersigned,

Robert A. Keene
Robert A. Keene
6242 36th Avenue N.E.
Seattle Washington

Appendix A-22

6/7/75 h. A. Ma called - I don't do ENG.

6/14/75 2 phone calls re Court appearance - I can't. Lemaster - atty for defense
Atty Betts denies my deposition or letters to be introduced.
I can testify after week-end.
Could today ex-post holiday.

6-18-75 - #3 for 499⁰⁰

8/20/75 Deposition 4PM-6:45PM (2L+45")
next trial date in 11/19/75

Leantle = AT + KT - 0-0

CC of 25 papers each to Lemaster via Port Cannon - could repeat
att F. Betts 1833 Pacific Hwy
Seattle 98104
622-3110

Deciphered from above.

2/7/75 A-A Sole Called - - I don't do ENG.

2/11/75 2 phone calls re Court appearance - I can't. Lemaster - atty for defense

Atty Betts denies my deposition or letters to be introduced

I can testify right after week-end

Could today ex-post holiday

Appendix A-21

JOHN J. CHAMPAGNE
CLERK
REGINALD N. SHRIVER
DEPUTY

The Supreme Court

State of Washington

Olympia
98504

October 10, 1979

Ms. Beatrice Koker
939 N. 105th Street
Seattle, Washington 98104

Mr. Kenneth LeMaster
Mr. R. Scott Fallon
4333 Brooklyn N.E.
Seattle, Washington 98105

Dear Mrs. Koker & Mr. LeMaster:

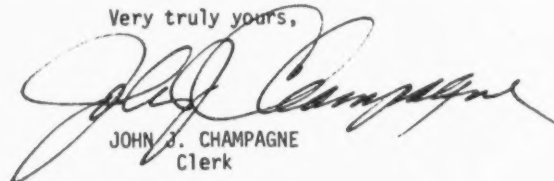
Re: Supreme Court Nos. 45846 & 46169 - Erich Koker and
Beatrice E. Koker v. Noel B. Sage and Winetta
Sage, et al.

Mrs. Koker's "Motion for Special Proceedings" was received
on October 2, 1979. Our records indicate that Petition for
Review in cause number 45846 and Motion for Discretionary Review
(entitled Notice of Appeal) in cause number 46169 was denied
July 20, 1979.

Although this Court no longer has jurisdiction over the
referenced cases because of the denials, the files are in
storage in this Court.

In the event the United States Supreme Court grants
certiorari on these cases, it will then be timely to consider
the manner in which the "Motion for Special Proceedings" will
be handled by the appellate courts, and accordingly said
motion will be filed without further action at this time. The
files are, of course, available for inspection in this office
at any time.

Very truly yours,


JOHN J. CHAMPAGNE
Clerk

JJC:dd

Appendix A-23

753-5080
AREA 208

SECOND MOTION SPECIAL ACCELERATED PROCEEDINGS

ERICH KOKER and BEATRICE E.
KOKER, husband and wife,
Plaintiffs/Appellants/Petitioners,
V

NOEL B. SAGE and WINETTA SAGE,
husband and wife, and
NOEL B. SAGE, Jr.

Defendants,
Respondents.

PENDING APPEAL TO THE UNITED STATES
SUPREME COURT

PENDING CIVIL ACTION SUPERIOR COURT

IN THE SUPREME COURT OF THE
STATE OF WASHINGTON

#45846 Supreme Court Of
State Of Washington

#46169 Re: #45846
Supreme Court Of The
State Of Washington

#4916-I Court of Appeals
Division I - State of
Washington

RECERTIFY ORIGINAL RECORDS

MOTION: TO ACT ON MOTION I
UNDER THOSE RULES
THEREIN STATED.

IDENTITY OF MOVING PARTY:

Beatrice E. Koker, Pro Se. Plaintiff: Superior Court -
Appellant: Appellate Court -
Petitioner: State Supreme Court

November 13, 1979

Unconstitutional Deed:

The original records, papers, exhibits, the entire file on
#4916-I released out of the jurisdiction and custody of the Court
of Appeals Division I for 46 days, with 12 extra days extension of
time. The file removal was not docketed until this pro se discovered
the records missing.

Pending Appeal: There is a pending appeal to the United States
Supreme Court, a fact which the Court of Appeals Division I knew
as per sending copy of the appeal certified mail to them.

Motion Rules: RAP 17.7: RAP 16.17: RAP 18.12: RAP 1.2 (a)(c):
RAP 4.3: RCW 2.28.150

This "under color of law" misdeed is to be ruled
upon by the State Supreme Court Judges ONLY. This
kind of matter is too serious an issue for anyone
else to rule. Please go by Motion I.

Appendix A-24

STATEMENT OF RELIEF SOUGHT:

(1) Proper recertification of the entire record original file removed from the appellate court. This is a serious Constitutional Question under 28 U.S.C.A. 1343 (1)(2)(3)(4): 28 U. S. C. A. 1738: 42 U.S.C.A. 1983-1984-1985: 28 U. S. C. A. Rule 1:

(2) Terms and sanctions for:

- (a) The State Supreme Court because the records were gone and already in the possession of the adversary out of the custody of the Court when I filed the appeal to the United States Supreme Court. The Clerk of the State Supreme Court indicated the records were in Olympia. See: Appendix A-1: Memo From Deputy Federal Court stating Mr. Champagne Had The Records In Supreme Court.
- (b) The Court of Appeals Division I who obtained the records and released the entire file, not even docketing same until after discovery by petitioner that the files were missing.
- (c) The recipient who received the original file. Having been an attorney over 40 years he knows the rules of the court and the law of the land and the pending civil trial based upon the Original Report of Proceedings in an Evidentiary Complaint.

(3) I have not asked for any monetary sanctions for myself as that would be a mercenary motion.

FACTS RELEVANT TO MOTION:

Honorable John J. Champagne replied to Motion I that he had filed the motion, and no further action would be taken at this time. The terms and sanctions include the Clerk of the State Supreme Court and for him to make a decision could be considered "conflict of interest." No terms and sanctions will be taken when the motion has been "shelved," thus inaction upon a Motion and protection from sanctions and terms for all responsible.

Mr. Champagne is under the impression the Jurisdictional Statement of this petitioner will not be accepted by the United States Supreme Court and he assumes in that case, the certification problem would not be relevant. Mr. Champagne did not take into consideration the current need for the records for the Superior Court. I reiterate the Rules and Purpose of the first motion and ask for a ruling by the Washington State Supreme Court.

FACTS RELEVANT TO MOTION: (Cont'd)

28 U.S.C.A. 1738 Note 25 indicates that any court receiving a certified record does not even have to ask of the clerk of the supreme court has had custody of the original file since it was filed. That fact is assumed because the rule is so stringent no one gets original files from the courts unless the court so orders for another proceeding in another court.

Shocking: It is shocking to realize that if I had not come into the appellate court for one copy of a page, and discovered the file missing, those original files would have been out of the jurisdiction of the court for a total of 58 days, or longer, then sent back to the Supreme Court of Washington and nobody would have known. A thought: How many times could this have happened before? NO ONE WOULD HAVE KNOWN OF THE CONSTITUTIONAL DISREGARD FOR THE RIGHTS OF A LITIGANT UNLESS THERE IS "DISCOVERY" BY CHANCE?

GROUND FOR RELIEF AND ARGUMENT:

The Clerk of the State Supreme Court knows that removal of those original files is constitutionally wrong and an act "under color of law." The Supreme Court Clerk knows I am 100% for the courts in spite of what has happened herein, and also in denial of justice on appeal in this state. I am not angry. I am very disappointed, disillusioned, distressed, outraged, and the blood pressure is elevated. Please undo the wrong of allowing original records out of your custody into the custody of a litigant. Please recertify the original file to the satisfaction of the United States Supreme Court for this pending appeal.

Mr. Champagne says the State Supreme Court no longer has jurisdiction over the case but the files are in storage in that court. It is my right to have the original records protected in the appellate courts of this state until the finality of the entire outcome of the United States Supreme Court. In defiance of all that is fair and just and in a deliberate way, the original files were given out and away from the court for a lengthy period of time. There is no way to excuse nor understand this wrong act.

GROUND FOR RELIEF AND ARGUMENT: (Cont'd)

Beatrice E. Koker, Petitioner, pro se, realleges Motion
I Special Accelerated Proceedings as set forth therein and asks
consideration now. Will you please help me?

II CITATION II USCA Constitution Amendment 14 §1 Note 155

"Neither the label which a state places on its own conduct,
nor even the legitimacy of its motivation, can avoid the
applicability of this Constitution."

"Where the individual has a constitutional right, and the
state has a correlative constitutional duty which it
deliberately fails to perform, there is state action
within this amendment."

In the event Mr. Champagne did not consider the current
civil action in superior court, it is respectfully asked again that
the Motion For Special Accelerated Proceedings be presented to the
Judges Only of the State Supreme Court for recertification of the
records to absolute original status that will be acceptable to the
United States Supreme Court.

Special Accelerated Proceedings is realleged as set forth
herein and I am respectfully asking for help in this
matter. Should the pro se be on the defensive when I
have not done the wrong? When there is an act "under
color of law" and the recipient of that act is willing
to go out of her way to be decent and pleasant and
cooperative can not you help in return to undo something
that is definitely a serious infringement on the rights of
anyone?

Copy Sent Certified Mail To:

Court Of Appeals Division I

Kenneth L. LeMaster and
R. Scott Fallon, Defense
Attorneys 4333 Brooklyn Ave NE
Seattle, Washington 98185

Respectfully submitted,

Beatrice E. Koker

Beatrice E. Koker, pro se
939 - North 105th Street
Seattle, Washington 98133
783-6998

A P P E N D I X

B - 1

B - 2

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B - 8

B - 9

B - 10

B - 11

B - 12

A P P E N D I X

11***11 CITATION: MODERN LEGAL FORMS Ch 4 p 383 § 381. Definition.

"An affidavit is a written statement sworn to or affirmed before an authorized officer. Where used in judicial proceedings it is sometimes defined as a voluntary statement made ex parte without giving the adverse party either notice or an opportunity to cross-examine."

Mr. Wood dictated the affidavit statement to me. The statement was typed verbatim and read back to him. He re-read before signing the affidavit before a Notary. His sworn testimony is verification of the truth of the facts of confusion and not understanding by the jurors as proclaimed by appellant from the beginning to the end. The 11 month pro se Sequence-Search now ended.

Case #773620 Koker V. Sage
STATE OF WASHINGTON, } GENERAL AFFIDAVIT
County of KING } ss. Trial by jury June 9, 1976 through June 15,
1976. King County Superior Court, Honorable
Donald J. Horowitz, Presiding.
Stephen M. Wood 7712 Dayton Avenue North Seattle, Washington being first duly
sworn on oath deposes and says:

That

I, Stephen M. Wood, Foreman of the Jury in the above mentioned case of Koker v. Sage, relate by this affidavit there was a problem of confusion on the jurors' part in deliberation, whether we were supposed to find the guilt or innocence of Mrs. Koker.

In jury deliberation of this case, it was a time consuming effort of approximately 2 hours for me to convince the jurors there was no guilt or innocence of Mrs. Koker involved but only the damages to be determined.

We, the jury, went through a voting process to establish the innocence of Mrs. Koker and I, the jury foremen, explained no guilt of Mrs. Koker was involved. That the boy had admitted liability for the accident and was at fault.

Subscribed and sworn to before me this

22nd day of June, 1977

Notary Public in for the State of Washington residing at

My commission expires Sept 23, 1977.

GENERAL AFFIDAVIT
Washington Legal Blank Co., Bellevue, Wa. Form No. 432

- 11 -

AFFIDAVIT GENERAL FORM
Washington Legal Blank Co., Bellevue, Wa. Form No. 39

Appendix B-1

State of WASHINGTON

County of KING

Kenneth L. LeMaster, Defense Attorney
R. Scott Fallon, Defense Attorney
Frederick Petts, Plaintiff Attorney
Beatrice E. Koker, Plaintiff Appellant

ORAL ARGUMENT APPELLATE COURT PROCEEDINGS

PACIFIC BUILDING FEBRUARY 22, 1978 (Afternoon Session)

CASE 4916-I King County #773620 KOKER V SAGE

State of WASHINGTON

County of KING

Before me, Debra Gilbert, Notary

in and for the County of KING State of WASHINGTON

residing at SEATTLE

personally came STEPHEN M. WOOD

7712 Dayton Avenue North Seattle, Washington

who, being by me duly sworn ON OATH according to law, deposes and says, that

I was at the oral argument as an interested bystander and to lend my support even though Mrs. Koker had no idea I was there.

Both defense attorneys, Mr. LeMaster and his associate were in the hall outside the Court of Appeals, February 22, 1978. Mr. Petts came out of the elevator.

Mr. LeMaster said: "Hi Fred. What are you doing here?"

Mr. Petts said: "I came to see what the old lady has on us."

Mr. Petts and Mr. LeMaster's associate went downstairs and Mr. LeMaster went back to the courtroom.

When the proceedings for Beatrice Koker started after the recess, there was a change of judges.

Mr. Petts looked up at the judges and said: "Oh God no, not him." And put his head between his hands.

Stephen M. Wood
7712 Dayton Avenue North
Seattle, Washington

AFFIDAVIT GENERAL FORM
Washington Legal Blank Co., Bellevue, Wa. Form No. 39

Appendix B-2

State of WASHINGTON } Kenneth L. LeMaster, Defense Attorney
County of KING } R. Scott Fallon, Defense Attorney
Frederick V. Betts, Plaintiff Attorney
Beatrice E. Koker, Plaintiff

PERSONAL INJURY TRIAL - KOKER V SAGE CASE 773620
SUPERIOR COURT - KING COUNTY COURTHOUSE JUNE 11, 1976
HONORABLE JUDGE DONALD J. HOROWITZ PRESIDING

State of WASHINGTON }
County of KING }
Before me, J. G. Ambler }
in and for the County of KING } State of WASHINGTON
residing at Seattle King County Wa.
personally came BONNIE BROWN
714 - North 103rd Street Seattle, Washington 98133
who, being by me duly sworn ON OATH according to law, deposes and says, that

I, as a witness, was requested by Mr. LeMaster, defense attorney, to leave the courtroom until my time to take the witness stand. When Mrs. Koker came out into the hall from the courtroom, she said the court was recessed for lunch.

Wanting to ask Mr. Betts a question, I returned to the courtroom just at the beginning of the noon lunch hour. The Judge had left the Courtroom.

Mr. Betts and Mr. LeMaster and the second defense attorney of whom I did not know his name, were standing on the right side of the Judge's bench near the witness chair, with their backs to the back of the courtroom and they were talking in low tones. No one else was in the courtroom when I walked up to the attorneys and I heard Mr. LeMaster say to Mr. Betts:

"Fred, I can't lose this trial."

Mr. Betts said to Mr. LeMaster:

"Ken, you don't have anything to worry about."

Then the three attorneys turned around, apparently not knowing I was there, and all three had a shocked and stunned look to see me standing there.

appendix B-3

Bonnie Brown
BONNIE BROWN
714 - North 103rd Street
Seattle, Washington 98133

WASHINGTON } Kenneth L. LeMaster, Defense Attorney
County of KING } R. Scott Fallon, Defense Attorney
Frederick Betts, Plaintiff Attorney
Beatrice E. Koker, Plaintiff Appellant

ORAL ARGUMENT APPELLATE COURT PROCEEDINGS
PACIFIC BUILDING FEBRUARY 22, 1978 (Afternoon Session)
CASE 4916-I King County #773620 KOKER V SAGE

State of WASHINGTON }
County of KING }
Before me, J. G. Ambler } a NOTARY
in and for the County of KING } State of WASHINGTON
residing at Seattle King Co
personally came REV. DANIEL L. SABROWSKY
11051 - Phinney Avenue North Seattle, Washington
who, being by me duly sworn ON OATH according to law, deposes and says, that

I was present in Appellate Court on February 22, since I had an interest in Mrs Beatrice Koker's case, being her pastor. I had also been present for the court proceeding which is under appeal, hence I recognized both Mr. Betts, and Mr. LeMaster. Mrs. Koker's Case was not due for a time, so I was waiting out in the hall. I saw Mr. LeMaster, and Mr. Betts talking together, and was able to hear a portion of their conversation. They were discussing the case of Mrs. Koker; and I heard several derogatory remarks made about Mrs. Koker. There were two instances of such discussions in the hallway. When I saw the two attorneys, Mr. LeMaster and Mr. Betts, together with Mr. LeMaster's associate, go out to the hall again, I also went out. They did not know me, and apparently thought that I was an attorney, since they asked if I had a case pending that afternoon.

I am not sure during which discussion the following was said, but it was during one of the two conversations I witnessed in the hallway. Mr. Betts asked Mr. LeMaster - "What's she trying to accomplish?" Mr. Betts also stated - "You have only had to put up with her for a few months, I have had to put up with her for years." Other similar statements were made, but I cannot recall their content.

The hall conversations gave to me the opinion and impression that there was some kind of conspiracy between the two above named attorneys against Mrs. Koker.

I did speak to Mrs. Koker prior to the court proceedings on the 22nd, and informed her of what I had overheard.

Rev. Daniel L. Sabrowsky
Rev. Daniel L. Sabrowsky
11051 Phinney Avenue North
Seattle, Washington

AFFIDAVIT GENERAL FORM
Washington Legal Blank Co., Bellevue, Wa. Form No. 38

Appendix B-4

State of WASHINGTON
County of KING

Kerneth L. LeMaster, Defense Attorney
R. Scott Fallon, Defense Attorney
Frederick Betts, Plaintiff Attorney
Beatrice E. Koker, Plaintiff

PERSONAL INJURY TRIAL - KOKER v SAGE Case #773620
SUPERIOR COURT - KING COUNTY COURTHOUSE February 11, 1975
HONORABLE JUDGE DAVID C. HUNTER, PRESIDING
THIS TRIAL ENDED IN A MISTRIAL

State of WASHINGTON

County of SNOHOMISH

Before me, James C. Oney

a NOTARY

in and for the County of SNOHOMISH State of WASHINGTON

residing at Granite Falls

personally came BONNIE BROWN

Lake Connors, Washington - Mailing Address: P.O. Box 284 Lake Stevens, Wash. 98258

who, being by me duly sworn ON OATH according to law, deposes and says, that

In the February 1975 trial, as Mrs. Koker was testifying about the procedures of the myelogram and how the doctor took out some of the spinal fluid, I heard Mr. LeMaster say under his breath: Quote:

"Too bad they didn't take all the fluid out of her."

Bonnie Brown
Bonnie Brown
P. O. Box 284
Lake Stevens, Washington 98258

appendix B-5

DR. ANDERS E. SOLA
DR. ANDERS E. SOLA, PLAINTIFF TREATING Doctor

- 1 [a] GRADUATED FROM THE UNIVERSITY OF WASHINGTON - 1950.
- 2
- 3 [b] TOOK A ROTATING INTERNSHIP AT TACOMA-PIERCE COUNTY HOSPITAL.
- 4
- 5 [c] RESIDENCY IN PHYSICAL MEDICINE AT THE VETERAN'S HOSPITAL,
- 6 PORTLAND, OREGON.
- 7
- 8 [d] CHIEF, PHYSICAL MEDICINE SERVICE, LACKLAND AIR FORCE BASE
- 9 HOSPITAL, IN CHARGE OF PHYSIATRY AND REHABILITATION MEDICINE.
- 10
- 11 [e] PRESENTLY AN APPOINTMENT WITH THE PAIN CLINIC AT THE UNIVERSITY
- 12 OF WASHINGTON. PRIVATE PRACTICE AT NORTHGATE, SEATTLE, WASH.
- 13 FOR MANY YEARS.
- 14
- 15 [f] INVITED TO THE INTERNATIONAL PAIN CONFERENCE, FLORENCE, ITALY-
- 16 1975.
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PERSONAL FRIEND OF:

JANET TRAVELL, M.D. PRIVATE PHYSICIAN TO PRESIDENT LYNDON JOHNSON AND PRESIDENT JOHN F. KENNEDY AND USED DR. SOLA'S TRIGGER POINT NEEDLING USING NORMAL SALINE TECHNIQUE TO TREAT JOHN F. KENNEDY'S BACK PROBLEM. (SEE DR. SOLA'S PUBLISHED PAPERS.)

FILM:

ROBERT L. WILLIAMS, M. D.
CHIEF OF PSYCHIATRY AND NEUROLOGY
BAYLOR COLLEGE OF MEDICINE
TEXAS MEDICAL CENTER
HOUSTON, TEXAS 77025

MADE FILM WITH DR. ANDERS E. SOLA WHILE IN THE AIR FORCE IN THE 1950's.

FILM WAS "TRIGGER POINT NEEDLING" USING NORMAL SALINE. FILM WAS SHOWN AT THE AMA NATIONAL CONVENTION IN NEW YORK IN 1973 AND FROM THERE THE FILM WAS SHOWN IN VARIOUS PLACES BY THE MEDICAL DOCTOR WHO HAD IT. PHYSICIAN IN CHARGE: DR. RON MELZACK.

MEDICAL DOCTORS THROUGHOUT THE UNITED STATES REFER PATIENTS TO DR. SOLA. THE PAIN CLINIC AT THE UNIVERSITY OF WASHINGTON REFERS PATIENTS TO DR. SOLA. DR. JOHN BONICA, PROFESSOR AND DIRECTOR OF THE PAIN CLINIC, UNIVERSITY OF WASHINGTON.

DR. SOLA'S WORK IS MENTIONED IN BOOKS BY PHYSICIAN AUTHORS. DR. JANET TRAVELL, DR. WILLIAM A. MCGAREY, DR. LOUIS MOSS, DR. ...

appendix B-6

State of WASHINGTON
County of KING

TO WHOM IT MAY CONCERN

REGARDING: BEATRICE E. KOKER, Patient

State of WASHINGTON
County of KING

Before me, Katherine M. Hutchison, a Notary

in and for the County of King State of Washington
residing at 11319 - 8th Ave. N.E. #102 Seattle 98125
personally came Anders E. Sola, M.D., 120 Northgate Plaza, Rm 340, Seattle 98125

who, being by me duly sworn on oath according to law, deposes and says, that

Beatrice Koker was injured in an automobile accident June 4, 1971. Initially she sustained an acute cervical sprain involving the left posterior cervical region and left upper extremity, and a twisting injury to the lumbo sacro region L4, L5, S1.

Mrs. Koker was treated in my clinic for a period of time in 1971, and has intermittently been treated until present. The patient has had multiple complaints and symptoms, many of which were difficult to evaluate. In the head and neck area, these complaints were localized to the left ear and around the left eye, left upper extremity, and left facial area. The most obvious problem was frequent muscle spasm of the left posterior cervical region. The patient suffered a severe cervical sprain involving nerve root C5, C6 on the left. This was aggravated by the pre-existing minimal osteoarthritis which was present. Mrs. Koker still suffers from frequent episodes of acute torticollis and muscle spasm which I have treated intermittently with injections of xylocaine and saline which brings temporary relief.

In addition, Mrs Koker suffered a severe injury, as mentioned above, involving the lumbo sacro region. This was associated with an Electromyogram evidence of peripheral nerve injury involving nerve roots L4, L5 on the right. There is also muscle weakness in the quadriceps and anterior tibial muscles on the right. Mrs. Koker also has weakness of the left quadricep muscle which causes some instability of her left knee. She requires treatment once or twice a month with injections of xylocaine and saline into the painful trigger points in the gluteal and hip muscles both right and left and also the left posterior cervical region. These injuries are permanent. The lumbo sacro injury has caused a permanent drop foot of the right foot which necessitates the wearing of a short leg brace on the right leg.

Anders E Sola
ANDERS E. SOLA, M.D.

appendix B-7

Ankle Injury

PHONED A.M. P.M.	PROMISED	DELIVER	WILL CALL
------------------------	----------	---------	-----------

FOR B Koker 9/11/75

ADDRESS R Ananase 100 mg

#18

Sy T gid 3 days
then T bid 195720

REFILL _____ TIMES

SUBSTITUTION PERMITTED M D L Hennickson
copy of records 219 AURORA AVENUE NORTH
DATE Seattle, Washington 98123

EINAR HENRIKSEN, M.D.
ORTHOPEDICS AND FRACTURES
120 NORTHGATE PLAZA PHONE 363-8666

FOR Beatrice Koker

ADDRESS _____ DATE 5-3-78

R 3 1/2" lateral
sole wedge
1/8" lateral
heel wedge
high shoe

REPEAT _____
NON-REPEAT E Hennickson M.D.

U.S. REG NO _____

appendix B-8

*Left
Shoe Lift*

Appendix B-9



Appendix B-10

Certificate of Membership

Newspaper Institute of America

Approved As A Correspondence School Under The Laws Of The State Of New York

THIS warrant, when validated by the signatures of the Dean and a member of the Editorial Staff of the Newspaper Institute of America, certifies that

MRS. ERICH KOKER

has qualified for membership in the Newspaper Institute of America by satisfactory execution of the Writing Assignments and by discharge of all the obligations imposed by the terms of the application for membership, and is entitled to all privileges existent at the time of application and specific endorsement of the Member's qualifications for employment if the member shall exercise the right hereby conferred to use the Newspaper Institute of America as reference to a prospective employer, in accordance with the record as set forth on the reverse hereof.



Newspaper Institute of America, Inc.

W. K. Harrison
Dean

New York *Oct. 27, 1960* *Jack B. Chervin*
Editorial Department

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON FOR KING COUNTY

ERICH KOKER and BEATRICE E.
KOKER, husband and wife,

Plaintiffs,

vs.

NOEL B. SAGE and WINETTA
SAGE, husband and wife,
and NOEL B. SAGE, JR.,

Defendants.

NO.

C O M P L A I N T

Plaintiffs complain and allege as follows:

I.

That at all times herein mentioned the plaintiffs were and are husband and wife and residents of King County and that the defendant Noel B. Sage and Winetta Sage were husband and wife, constituting a marital community under the laws of the State of Washington; and that the defendant Noel B. Sage, Jr. is their son. That all actions of Noel B. Sage, Jr. were done for and on his own behalf and on behalf of the marital community of Noel B. Sage and Winetta B. Sage, his wife. That all of said defendants are residents of King County, Washington.

II.

That on or about June 4th, 1971, at approximately 1:00 P.M. the plaintiff, Beatrice Koker, was northbound on Dayton Avenue North, driving their Plymouth Fury automobile, and crossing North 90th Street, when the defendant Noel B. Sage, Jr. was driving a Chevrolet belonging to said defendants in a negligent manner easterly on North 90th Street. That said defendant failed

to bring his vehicle to a stop before entering on Dayton Avenue North and was driving at an excessive rate of speed and operating his vehicle while under the influence of intoxicating liquor.

III.

As a direct and proximate result of the reckless, negligent and careless driving by the defendant Noel B. Sage, Jr. the plaintiff Beatrice E. Koker suffered permanent and lasting injuries, both physically and mentally, which has in the past and will in the future materially affect her ability to carry on a normal life and that by reason of the injuries she has been unable to carry on her normal duties and activities as a member of the marital community composed of herself and her husband, all to their general damages in the sum of \$50,000.00.

That the plaintiffs have been required to incur substantial expenses in connection with medical treatment in the past and will be required to incur expenses for medical treatment in the future. That in addition thereto they have incurred additional expenses including medication, assistance in the maintenance of their home, all of which is in an amount uncertain at this time but will be proven at the time of trial.

IV.

That the plaintiffs' vehicle was depreciated in market value in the sum of \$750.00.

WHEREFORE, plaintiffs pray for judgment against the defendants and each of them in the amount of \$50,000.00 general damages together with medical expenses and other special damages which will be proven at the time of trial, together with \$750.00 for depreciation of the automobile, together with plaintiffs' costs and disbursements herein to be taxed.

DATED this 3rd day of August, 1973.

SKEEL, MCKELVY, HENKE, EVENSON & BETTS

By F. V. Betts LAW OFFICES
Frederick V. Betts
Attorneys for Plaintiffs
SKEEL, MCKELVY, HENKE, EVENSON & BETTS
1030 NORTON BUILDING
SEATTLE, WASHINGTON 98104
823-1031

ANDERS E. SOLA, M.D.
120 NORTHGATE PLAZA, ROOM 340
SEATTLE, WASHINGTON 98125

TELEPHONE EM 3-1816

ELECTROMYOGRAPHIC REPORT

RECEIVED
FEB 10 1975

SIR: L. McKELVIE, P.E.,
JENSON AND BETTS
404 FLOOR 9-J-4th AVE, SEATTLE

NAME: BEATRICE KOKER	Age	Dr. Dr. Henriksen, Dr. Rothstein
MUSCLES-NECK & UPPER EXTS. Paraspinal, POST. PRIMARY DIV. N. C1, C2, C3, C4, C5, C6, C7, C8 T1, T2, T3, T4, T5, T6, T7, T8 Sternocleidomast. (C2,3) CR. N. (XI) Trapezius (C2,3,4) CR. N. (XI) Rhomboid (C5), DORSAL SCAPULAR N. Supraspinatus (C5) } SUPRASCAPULAR N. Infraspinatus (C5) } Serratus ant. (C5,6,7), LONG THORACIC N. Latiss. dorsi (C6,7,8), THORACODORSAL N. Deltoid (C5) } AXILLARY N. Teres minor (C5) } Biceps (C5,6), MUSCULOCUTANEOUS N. Triceps (C7,8) Brachioradialis (C5,6) Ext. carpi radialis (C6,7) Ext. dig. communis (C7) } RADIAL N. Ext. carpi ulnaris (C7,8) Ext. pollicis long. (C7,8) Abd. pollicis long. (C7,8)	MEDIAN N. forearm Flex. carpi radialis (C6) Flex. dig. sublimis (C7) Flex. dig. profundus (C7) THENAR GROUP Abd. pollicis brev. (C7,8) Opponens pollicis (C7,8) Flex. pollicis brev. (C8) Flex. carpi ulnaris (C8) Flexor dig. profundus (C7,8) HYPOTHENAR GROUP Abd. digiti quinti (T1) Opp. digiti quinti (T1) Flex. digiti quinti (T1) Interossei, 1,2,3,4, (C8,T1)	ADDUCTORS (L2,3), OBTURATOR N. Gluteus med. (L5) } SUP. GLUTEAL N. Tensor fascia lata (L5) } Gluteus max. (S1) INF. GLUTEAL N. Hamstrings Biceps femori (L5) } SCIATIC N. Semitendinosus (S1) } Semimembranosus (S1) } Tibialis ant. (L4) Ext. dig. long. (L5) Ext. hallucis long. (L5) } PERONEAL N. Peroneus long. (L5) Peroneus brev. (L5) Gastrocnemius, lat. hd. (S1) Gastrocnemius, med. hd. (S1,2) } TIBIAL N. Soleus (L5,S1) Intrinsic Muscles of the Foot (S1,2) Flex. digiti brev. } MED. PLANTAR N. Abd. hallucis } Abd. digiti quinti } LAT. PLANTAR N. Interossei, }

Copy to: Einar Henriksen, M.D. Ted L. Rothstein, M.D. F. V. Betts, Attorney
120 Northgate Plaza, 98125 1570 N. 115 98125 Norton Bldg. Seattle

An Electromyogram was done on Beatrice Koker, 2-7-75, of both upper extremities, both lower extremities and back. Abnormal potentials were noted in the form of polyphasic potentials and positive sharp waves in the left biceps. The right and left trapezius revealed numerous polyphasic potentials associated with secondary muscle spasm. The right upper extremity was normal and other parascapular muscles were normal.

IMPRESSION: Nerve root irritation C5, 6 on the left, moderate.

Examination of the lower extremities revealed abnormal polyphasic potentials as associated with some fibrillation potentials in the anterior tib and peroneal muscles, on the right. I was unable to detect any abnormal potentials in the lumbar paraspinal muscles. All other muscle groups tested, which included the hamstrings, quadriceps, gastrocnemius, and anterior tib and peroneal, on the left, were normal.

IMPRESSION: Nerve root irritation L5 on the right, moderate.

I believe the above findings explain her difficulty in walking, also to the temporary effect of injections and physical therapy treatment in the shoulder girdle. I think these findings should be re-evaluated by an orthopedic surgeon.

Anders Sola
ANDERS E. SOLA, M.D.

Appendix B-12

AES: jv

ANDERS E. SOLA, M.D.
120 NORTHGATE PLAZA, ROOM 340
SEATTLE, WASHINGTON 98125

TELEPHONE EM 3-1816

ELECTROMYOGRAPHIC REPORT

5-7-76

NAME: BEATRICE KOKER	Age	Dr. ANDERS E. SOLA, M.D.
MUSCLES-NECK & UPPER EXTS. Paraspinal, POST. PRIMARY DIV. N. C1, C2, C3, C4, C5, C6, C7, C8 T1, T2, T3, T4, T5, T6, T7, T8 Sternocleidomast. (C2,3) CR. N. (XI) Trapezius (C2,3,4) CR. N. (XI) Rhomboid (C5), DORSAL SCAPULAR N. Supraspinatus (C5) } SUPRASCAPULAR N. Infraspinatus (C5) } Serratus ant. (C5,6,7), LONG THORACIC N. Latiss. dorsi (C6,7,8), THORACODORSAL N. Deltoid (C5) } AXILLARY N. Teres minor (C5) } Biceps (C5,6), MUSCULOCUTANEOUS N. Triceps (C7,8) Brachioradialis (C5,6) Ext. carpi radialis (C6,7) Ext. dig. communis (C7) } RADIAL N. Ext. carpi ulnaris (C7,8) Ext. pollicis long. (C7,8) Abd. pollicis long. (C7,8)	MEDIAN N. forearm Flex. carpi radialis (C6) Flex. dig. sublimis (C7) Flex. dig. profundus (C7) THENAR GROUP Abd. pollicis brev. (C7,8) Opponens pollicis (C7,8) Flex. pollicis brev. (C8) Flex. carpi ulnaris (C8) Flexor dig. profundus (C7,8) HYPOTHENAR GROUP Abd. digiti quinti (T1) Opp. digiti quinti (T1) Flex. digiti quinti (T1) Interossei, 1,2,3,4, (C8,T1)	ADDUCTORS (L2,3), OBTURATOR N. Gluteus med. (L5) } SUP. GLUTEAL N. Tensor fascia lata (L5) } Gluteus max. (S1) INF. GLUTEAL N. Hamstrings Biceps femori (L5) } SCIATIC N. Semitendinosus (S1) } Semimembranosus (S1) } Tibialis ant. (L4) Ext. dig. long. (L5) Ext. hallucis long. (L5) } PERONEAL N. Peroneus long. (L5) Peroneus brev. (L5) Gastrocnemius, lat. hd. (S1) Gastrocnemius, med. hd. (S1,2) } TIBIAL N. Soleus (L5,S1) Intrinsic Muscles of the Foot (S1,2) Flex. digiti brev. } MED. PLANTAR N. Abd. hallucis } Abd. digiti quinti } LAT. PLANTAR N. Interossei, }

An Electromyogram was done on Beatrice Koker, 5-27-76. Examination was done of the paraspinal muscles, the gluteals, were normal. On the right, the tensor fascia lata revealed abnormal potentials in the form of fibrillation potentials and positive sharp waves, minimal. The right anterior tib and peroneal muscles, revealed numerous polyphasic potentials and fibrillation potentials at rest throughout all the dorsi flexors.

The right gastroc soleus also revealed a few scattered fibrillation potentials on the medial head of the gastroc muscle. The right quadriceps and hamstrings were normal.

On the left, no abnormal potentials were noted on the left lower extremity which included, the gluteals, hamstrings, gastroc soleus, dorsi flexors of the foot.

IMPRESSION: Nerve root irritation L4, L5 on the right, marked.

Examination of the cervical area revealed, on the left, a few scattered fibrillation potentials in the left supraspinatus, the anterior portion of the deltoid, and triceps. In addition, the triceps, a few scattered polyphasic potentials were noted at rest. The rest of the parascapular muscles, extensors, flexors of the wrist were normal.

IMPRESSION: Nerve root irritation C5, 6, minimal on the left.

ANDERS E. SOLA, M.D.

Appendix B-12

AES: jv